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APPROPRIATIONS, BUDGET ESTIMATES, ETC.

VOL. 1

STATEMENTS

ONE HUNDREDTH CONGRESS, FIRST SESSION

(January 6, 1987 to December 22, 1987)

SHOWING

I.—APPROPRIATIONS MADE DURING THE FIRST SESSION OF THE ONE HUNDREDTH CONGRESS IN REGULAR ANNUAL, SUPPLEMENTAL, AND MISCELLANEOUS APPROPRIATION ACTS; RESCISSION ACTS; DEFERRAL RESOLUTIONS; AND MAJOR ACTS AUTHORIZING APPROPRIATIONS (pp. 1-1328) *(continued in vol. 2)*

PREPARED UNDER THE DIRECTION OF THE COMMITTEES ON APPROPRIATIONS OF THE SENATE AND HOUSE OF REPRESENTATIVES AS REQUIRED BY LAW (U.S. CODE, TITLE 2, SECTION 105)

BY

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S180-1

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COMPILERS' NOTES

1. The Legislative Appropriation Act approved June 7, 1924, provided:

"In lieu of the data relating to offices created and omitted and salaries increased and reduced, the statement shall hereafter contain such additional information concerning estimates and appropriations, as the committees may deem necessary."

Such data had been tabulated in previous volumes of this work for each session of Congress from the Fiftieth to the Sixty-seventh, inclusive, covering the fiscal years 1889 to 1924, inclusive.

2. This compilation contains laws affecting, rescinding, or making appropriations which were enacted during the first session of the 100th Congress with the exception of private relief acts containing appropriations. These acts have been omitted from this compilation, but a summary containing the number of the act, the beneficiaries, and the amount appropriated is included.

There were *twenty-three* appropriation bills and resolutions acted upon to some extent by the Congress during the first session of the 100th Congress (twenty were House bills and three were Senate bills) and seven of those bills eventually became law (two were supplementals and five were continuing resolutions). *None* of the thirteen regular annual appropriation bills became law except through the continuing resolution process: *H.R. 2763*—Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations for 1988 was passed by both the House and Senate but was conferenced as part of H.J. Res. 395; *H.R. 3576*—Department of Defense Appropriations for 1988 was reported by the House Committee on Appropriations while a companion bill (S. 1923) was reported by the Senate Committee on Appropriations with no further action taken by either the House or Senate; *H.R. 2713*—District of Columbia Appropriations for 1988 was passed by both the House and Senate but was conferenced as part of H.J. Res. 395; *H.R. 2700*—Energy and Water Development Appropriations for 1988 was passed by both the House and Senate but was conferenced as part of H.J. Res. 395; *H.R. 3186*—Foreign Operations, Export Financing, and Related Programs Appropriations for 1988 was reported by the House Committee on Appropriations while a companion bill (S. 1924) was reported by the Senate Committee on Appropriations with no further action taken by either the House or Senate; *H.R. 2783*—Department of Housing and Urban Development—Independent Agencies Appropriations for 1988 was passed by both the House and Senate but was conferenced as part of H.J. Res. 395; *H.R. 2712*—Department of the Interior and Related Agencies Appropriations for 1988 was passed by both the House and Senate but was conferenced as part of H.J. Res. 395; *H.R. 3058*—Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations for 1988 was passed by both the House and Senate but was conferenced as part of H.J. Res. 395; *H.R. 2714*—Legislative Branch Appropriations for 1988 was passed by both the House and Senate but was conferenced as part of H.J. Res. 395; *H.R. 2906*—Military Construction Appropriations for 1988 was passed by both the House and Senate but was conferenced as part of H.J. Res. 395; *H.R. 3520*—Rural Development, Agriculture, and Related Agencies Appropriations for 1988 was reported by the House Committee on Appropriations while a companion bill (S. 1800) was reported by the Senate Committee on Appropriations with no further action taken by either the House or Senate; *H.R. 2890*—Department of Transportation and Related Agencies Appropriations for 1988 was passed by both the House and Senate but was conferenced as part of H.J. Res. 395; and *H.R. 2907*—Treasury, Postal Service, and General Government Appropriations for 1988 was passed by both the House and Senate but was conferenced as part of H.J. Res. 395. A chronology of all twenty-three bills is included in table V (see pp. 2374-2381).

Financing of programs and activities normally included in the thirteen regular annual appropriation bills that did not become law is provided through five continuing resolutions as follows:

—Public Law 100–120 for the period October 1–November 10, 1987;
—Public Law 100–162 for the period November 11–December 16, 1987;
—Public Law 100–193 for the period December 17–December 18, 1987;
—Public Law 100–197 for the period December 20–December 21, 1987; and
—Public Law 100–202 for the period December 22, 1987–September 30, 1988.

For further information concerning each of the thirteen regular annual appropriation bills that did not become law, see the "note" at the beginning of each of those bills (pp. 91, 93, 95, 97, 99, 101, 103, 105, 109, 111, 113, 115, and 117).

There were no separate "rescission acts" or "deferral resolutions" during the 100th Congress, first session; however, several rescissions and deferrals were included in appropriation acts. It should be noted that amounts *proposed* for rescission are not reflected in the *net totals* for new budget (obligational) authority shown in the various tabulations throughout this volume whereas *amounts rescinded are reflected* in those totals.

3. This volume also contains various comparative tabulations for the session showing, by fiscal years and in both detailed and summarized form, the Presidential budget estimates (requests) for "appropriations" and certain other types of requests involving the appropriation of obligating and spending authority.

4. While required by the Constitution as a necessary prerequisite to the withdrawal of *any* money from the Treasury, through long usage the term "appropriation" acquired a definite, technical word-of-art meaning in relating to many details and summaries in the annual budget of the President, in the making available of obligational and spending authority, and in tabulations and summarizations of congressional fiscal actions. If the proposition did not "appropriate" within the concept thus imparted to the term, then it was not added in the "appropriation" totals. If it did so "appropriate", it was added in.

Thus, in congressional tabulations generally, a "reappropriation" (extension) of a balance of a previous appropriation was not added to the "appropriation" totals even though it provided obligational and spending authority beyond what would in its absence have been the case. An "authorization to expend from debt receipts" (sometimes called "public debt borrowing authority") was not counted as an "appropriation" even though it conveyed both authority to obligate and authority to expend. An authorization to enter into contracts in advance of an appropriation ("contract authorization"), being authority to obligate the Government but not to *expend* money, was not added in the general "appropriation" totals. But a subsequent "appropriation to liquidate" that contract authorization—an authority to expend money but not to create additional obligations—was counted as an "appropriation".

Furthermore, historically, prior to fiscal year 1969 the general budgetary and congressional appropriation totals were arranged and presented so as to give greater emphasis and prominence to those dealing with Federal or Federally-owned funds, as distinct from *trust* funds which the Government theoretically holds in a fiduciary capacity. Although prior to fiscal year 1938 (75th Cong., 1st sess.) such trust funds were relatively insignificant in the total appropriations picture they subsequently came to loom large, and while *separately* tabulated and noted in volumes of this work *previous* to the 90th Cong., 2d sess., they were not included in the aggregate totals, of "appropriations" generally emphasized and cited. (See note, table X, in volumes *prior* to the 90th Cong., 2d sess.). But in subsequent volumes, including this volume, they *are* incorporated in general appropriation totals.

Title 31 U.S.C., section 2, dealing with the national budget system, provides that the term "appropriations" includes, in appropriate context "* * * funds and authorizations to create obligations by contract in advance of appropriations, or any other authority making funds available for obligation or expenditure."

Special Note.—A further significant departure in what is now included in several general summary tabulations, which was not so included in these volumes *prior* to the 90th Cong., 2d sess., has to do with obligational or spending authority (including rescissions) conveyed in acts other than the regular annual and supplemental "appropriation" acts. Copies of such acts, and certain specific tabulations related to them, usually appear in one way or another in such prior volumes, but the amounts were not cranked directly into a number of the overall summary tabulations as had been done in volumes beginning with the 90th Cong., 2d sess. This especially affects tables VIII, IX, and X. To retain some consistency of ready identity as between amounts relating to the regular annual and supplemental "appropriation" acts and amounts relating to "appropriations in legislative acts", there is a breakout among these lines in each of these three tables (in some years, the "legislative act" amounts are quite significant, relatively. And sometimes, it is not easy or possible to nail down with absolute precision the amounts involved in the "budget estimates" or the amounts "appropriated"). The total new budget (obligational) authority in these tables are net amounts reflecting rescissions in regular annual and supplemental appropriation acts, rescission acts, and legislative acts.

A new, *unified* budget concept recommended by the President's Commission on Budget Concepts in its report of October 10, 1967, was embraced by the President, and the Budget for 1969 incorporated most of its basic features. The object was to secure usage, as nearly as may be practicable, of a *single* concept of appropriations, receipts, expenditures, lending, and debt in order to promote public and congressional understanding of Federal fiscal and budget actions and matters. The various comparative tabulations and summaries in this volume conform generally to the new concept in respect to "appropriations".

(For a more detailed exposition of the new concept, see the Report of the Commission, especially in relation to "appropriation", pp. 6, 12, 16, 76, 95, and 100; Special Analysis A, the Budget for 1969; and hearings of February 8, 1968, before the Committee on Appropriations, House of Representatives, on the Budget for 1969, p. 40 and following.)

Thus, in lieu of the terms "Estimates" and "Appropriations" used in volumes previous to the 90th Cong., 2d sess., subsequent volumes, including this volume, use the terms "Budget estimates of new (obligational) authority" and "New budget (obligational) authority appropriated". In broad terms, by far the major single difference between aggregate general totals in this volume in contrast to those in volumes previous to the 90th Cong., 2d sess., is the inclusion, in this volume, of *trust* funds (virtually all of which, incidentally, in any session or year, flow automatically from permanent-type enactment of *previous* sessions that thus do not require action in bills of the *current* session). And even under the new concept, in all but a relative handful of instances, the new budget (obligational) authority "requested" and "appropriated" is in the old, conventional "appropriation" form as previously used and understood.

Specifically, "new budget (obligational) authority" is derived by—

Appropriations (as herein above described) excluding appropriations to liquidate contract authorizations; plus
Reappropriations; plus
Contract authorizations; plus
Authorizations to spend from debt receipts.

It must be noted that there are, within the Government, certain inter-fund and intragovernmental payments between accounts that get counted in both places. Principal examples include: Interest on public debt securities held by trust funds; governmental contributions to employee retirement trust funds; and general fund contributions to various insurance programs. And under the new unified concept, certain "proprietary receipts from the public" are offset against budget authority *for budget summary presentation* purposes. This situation can complicate if a simple addition of Federal fund totals and trust fund totals is made without reckoning with this "deduct" problem. [Note.—The aggregate "deduct" figure of $209,337,833,000 for fiscal year 1988 used in several of the summary tables in this volume is the *estimated* amount relating to fiscal year 1988 shown on page 6c-20 of the Budget Supplement for 1988. Being an estimate, the "deduct" figure is *subject to revision* as actual data become available; and an updated amount for fiscal 1988 will appear in the budget for 1989.]

5. The Congressional Budget and Impoundment Control Act of 1974, Public Law 93-344, changed the fiscal year from the July 1-June 30 fiscal year to an October 1-September 30 fiscal year, and provided for the change to take place with the fiscal year beginning October 1, 1976 (fiscal year 1977). However, the preceding fiscal year (1976) ran from July 1, 1975 through June 30, 1976, thus providing a three-month interim period (July 1-September 30, 1976) for the necessary transition to the new fiscal year. This volume and the ten previous volumes are based upon the October 1-September 30 fiscal year.

   Title X (the "Impoundment Control Act of 1974") of the Congressional Budget and Impoundment Control Act of 1974 established new procedures for the reporting and control of impoundment actions of the President. Included in this volume are reports showing the status of rescissions and deferrals for fiscal year 1987 and the first 3 months of fiscal year 1988.

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[1] Majority and minority members elected January 6, 1987.
[2] Majority members elected January 6, 1987. Minority members elected January 21, 1987.
[3] Resigned October 5, 1987.
[4] Elected to the Committee October 21, 1987.

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I. APPROPRIATIONS MADE DURING THE FIRST SESSION OF THE ONE HUNDREDTH CONGRESS IN REGULAR ANNUAL, SUPPLEMENTAL, CONTINUING, AND MISCELLANEOUS APPROPRIATION ACTS; RESCISSION ACTS; DEFERRAL RESOLUTIONS AND MAJOR ACTS AUTHORIZING APPROPRIATIONS

EMERGENCY APPROPRIATIONS FOR THE FOOD AND SHELTER PROGRAM OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY, 1987

Public Law 100-6

100th Congress, H.J. Res. 102

February 12, 1987

JOINT RESOLUTION

Making emergency additional funds available by transfer for the fiscal year ending September 30, 1987, for the Emergency Food and Shelter Program of the Federal Emergency Management Agency.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is transferred, out of funds previously appropriated, for the fiscal year ending September 30, 1987, namely:

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(RESCISSION)

Of the funds included under this head in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, $7,475,000 are rescinded. —$7,475,000 *(rescission)*

EMERGENCY FOOD AND SHELTER PROGRAM

(BY TRANSFER)

For an additional amount for the "Emergency Food and Shelter Program", $50,000,000, which shall be derived by transfer from the Federal Emergency Management Agency appropriation "Disaster relief": *Provided,* That of such amount $5,000,000 shall be transferred to the Veterans' Administration medical care account to be available for the purpose of section 2 of this joint resolution. *50,000,000 (by transfer)*

TREATMENT AND REHABILITATION FOR CHRONICALLY MENTALLY ILL VETERANS

SEC. 2. (a) Subchapter II of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 620C. Community-based psychiatric residential treatment for chronically mentally ill veterans

"(a) For the purposes of this section:

"(1) The term 'case management' includes the coordination and facilitation of all services furnished to a veteran by the Veterans' Administration, either directly or through a contract, including, but not limited to, screening, assessment of needs, planning, referral (including referral for services to be furnished by either the Veterans' Administration or another entity), monitoring, reassessment, and followup.

"(2) The term 'contract facility' means any facility which has been awarded a contract under subsection (b)(1) of this section.

"(3) The term 'eligible veteran' means a veteran who, at the time of referral to a contract facility—

"(A) is being furnished hospital, domiciliary, or nursing home care by the Administrator for a chronic mental illness disability; or

"(B) is homeless and has a chronic mental illness disability; or

"(C) is a veteran described in section 612(a)(1)(B) of this title and has a chronic mental illness disability.

"(b)(1) The Administrator, in furnishing hospital, nursing home, and domiciliary care and medical and rehabilitative services under this chapter, may contract for care and treatment and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities for eligible veterans suffering from chronic mental illness disabilities.

"(2) Before furnishing such care and services to any veteran through a contract facility, the Administrator shall approve (in accordance with criteria which the Administrator shall prescribe by regulation) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such care and services.

"(c) In the case of each eligible veteran provided care and services under this section, the Administrator shall designate a Veterans' Administration health-care employee to provide case management services.

"(d) In furnishing care and services under this section, the Administrator shall accord priority for such care and services in the following order:

"(1) To any veteran for a service-connected chronic mental illness disability.

"(2) To any veteran with a disability rated as service-connected.

"(3) To any veteran for a non-service-connected disability, if the veteran is unable to defray the expenses of necessary care as determined under section 622(a)(1) of this title.

"(e) The Administrator may provide in-kind assistance (through the services of Veterans' Administration employees and the sharing of other Veterans' Administration resources) to a contract facility under this section. Any such in-kind assistance shall be provided under a contract between the Veterans' Administration and the contract facility. The Administrator may provide such assistance only for use solely in the furnishing of appropriate services under

this section and only if, under such contract, the Veterans' Administration receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Veterans' Administration facility that provided the assistance.

"(f) Not later than 3 years after the date of enactment of this section, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience under this section. The report shall include the Administrator's evaluation and findings regarding—

"(1) the quality of care furnished to participating veterans through contract facilities;

"(2) any health advantages that may result from furnishing such care and services to veterans in such contract facilities rather than in inpatient facilities over which the Administrator has direct jurisdiction;

"(3) the effectiveness of the use of contract facilities under this section in enabling the participating veterans to live outside of Veterans' Administration inpatient facilities and to achieve independence in living and functioning in their communities;

"(4) the health advantages and cost effectiveness of the use of contract facilities under this section to furnish shelter and health care to homeless veterans who are suffering from chronic mental illness disabilities;

"(5) the cost-effectiveness of furnishing such care through contract facilities under this section, including the effect on the average daily census in the Veterans' Administration hospitals, nursing homes, and domiciliary facilities participating in the program (taking into account whether the beds previously occupied by the participating veterans were subsequently occupied by other eligible veterans or remained unoccupied) and the effect on the numbers of Veterans' Administration staff employed at such facilities; and

"(6) any plans for administrative action, and any recommendations for legislation, that the Administrator considers appropriate to include in such report.".

(b) The table of sections at the beginning of chapter 17 of title 38, United States Code, is amended by inserting after the item relating to section 620B the following new item:

"620C. Community-based psychiatric residential treatment for chronically mentally ill veterans.".

(c) Any contract authority or other spending authority granted by this section shall be limited to $5,000,000.

SEC. 3. The recommendations of the President relating to rates of pay for offices and positions within the purview of section 225(f) of the Federal Salary Act of 1967, as included (pursuant to section 225(h) of such Act) in the budget transmitted to the Congress for fiscal year 1988, are disapproved.

DEPARTMENT OF AGRICULTURE

FOOD AND NUTRITION SERVICE

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

(Disapproval of Deferral)

The Congress disapproves the proposed deferral D87-33, in the amount of $28,559,000, relating to the Department of Agriculture, Food and Nutrition Service, Temporary Emergency Food Assistance Program, as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this joint resolution and the amount of the proposed deferral disapproved herein shall be made available for obligation. *$28,559,000 (deferral disapproval)*

Approved February 12, 1987.

LEGISLATIVE HISTORY—H.J. Res. 102

HOUSE REPORT No. 100-4 (Comm. on Appropriations).
SENATE REPORT No. 100-5 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133, 1987:
Jan. 22, reported in the House.
Jan. 27, considered and passed House.
Jan. 29, reported in the Senate; considered and passed Senate, amended.
Feb. 4, House agreed to Senate amendments under suspension of the rules.

Grand total:	
New budget (obligational) authority	−$7,475,000
Rescission	(−7,475,000)
By transfer	*(50,000,000)*
Deferral disapproval	*(28,559,000)*
Grand total, Emergency Appropriations for the Food and Shelter Program of the Emergency Management Agency, 1987	−$7,475,000

SUPPLEMENTAL APPROPRIATIONS ACT, 1987

Public Law 100-71

100th Congress, H.R. 1827

July 11, 1987

AN ACT

Making supplemental appropriations for the fiscal year ending September 30, 1987, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the fiscal year ending September 30, 1987, and for other purposes, namely:

TITLE I—PROGRAM SUPPLEMENTALS

CHAPTER I

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH, AND FACILITIES

The sum of $62,500,000, to be derived from $27,500,000 appropriated pursuant to Public Law 99-500 and Public Law 99-591 for commercialization of the land remote sensing satellite system and $35,000,000 appropriated pursuant to the same law for the polar orbiting satellite system, is hereby reprogrammed for a two spacecraft land remote sensing satellite system under a plan which provides for the cost of the second satellite from funds from users or other sources other than funds from the National Oceanic and Atmospheric Administration. The release of such funds is subject to the funding plan being approved by the House and Senate Committees on Appropriations.

None of the funds appropriated for the Department of Commerce in fiscal year 1987 shall be obligated or expended to promulgate or implement the March 2, 1987 proposed rulemaking on Sea Turtle Conservation; Shrimp Trawl Requirements for waters described in the proposed rulemaking as western Gulf of Mexico offshore, western Gulf of Mexico inshore, and Louisiana inshore, zones 10 through 21.

Of the funds deposited in the Fisheries Promotional Fund pursuant to section 209 of the Fish and Seafood Promotion Act of 1986, $750,000 shall be made available as authorized by said Act, to remain available until expended.

Funds appropriated or otherwise made available to the Department of Commerce and the National Oceanic and Atmospheric Administration shall be available for the procurement of launch services for geostationary weather satellites I, J, and K, to be conducted only by the National Aeronautics and Space Administration: *Provided,* That in the procurement of launch services for the National Oceanic and Atmospheric Administration for the GOES I, J, and K spacecraft, the National Aeronautics and Space Adminis-

tration may provide, in its contract or contracts for launch services, for the payment for contingent liability of the Government which may accrue in the event the Government should decide to terminate the contract before the expiration of the contract period. Such contract or contracts shall limit the payments the Federal Government is allowed to make under the contracts to amounts provided in advance in appropriations Acts. In January of each year, the Administrator of the National Oceanic and Atmospheric Administration shall report to the House and Senate Committees on Appropriations the projected aggregate contingent liability, through the next fiscal year and in total, of the Government under termination provisions of any launch services contracts authorized in this section: *Provided further,* That such contract or contracts may not be entered into until the Department of Commerce submits a written certification to the appropriate Committees of the Congress that the fiscal year 1988 budget request for launch vehicles for GOES I, J, and K fully meets such contractual requirements for fiscal year 1988 of $80,000,000 or submits a proposed budget amendment for fiscal year 1988 to the Congress requesting any additional funds required in fiscal year 1988 to meet the obligations of the proposed contractual agreement.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Not to exceed $14,100,000 appropriated and available for obligation and expenditure under section 108(a)(1) of Public Law 99-190, as amended, shall remain available for obligation through September 30, 1988: *Provided,* That the Economic Development Administration shall close out the audits concerning grants to New York, New York pursuant to title I of the Local Public Works Capital Development and Investment Act of 1976, not later than August 1, 1987.

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $7,600,000, to remain available until September 30, 1988. $7,600,000

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for "Salaries and expenses, general legal activities", $8,100,000, to remain available until September 30, 1988. 8,100,000

SALARIES AND EXPENSES, ANTITRUST DIVISION

For an additional amount for "Salaries and expenses, Antitrust Division", $200,000, to remain available until September 30, 1988. 200,000

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

In the appropriation language under this heading in Public Law 99-500 and Public Law 99-591, add at the end thereof the following: "Notwithstanding the provisions of title 31 U.S.C. 3302, the Director of the United States Marshals Service may collect fees and expenses for the service of civil process, including: complaints, summonses,

subpoenas and similar process; and seizures, levies, and sales associated with judicial orders of execution; and credit not to exceed $1,000,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services.".

SUPPORT OF UNITED STATES PRISONERS

For an additional amount for "Support of United States Prisoners", $9,630,000, to remain available until September 30, 1988. $9,630,000

UNITED STATES TRUSTEE SYSTEM FUND

In addition to amounts made available under the head "Salaries and expenses, oversight of bankruptcy cases", for the expansion of the United States Trustees Program, as authorized by section 115 of the "Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986" (Public Law 99-554), $12,000,000: *Provided,* That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors. 12,000,000

[*Total, Legal Activities, $29,930,000.*]

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $3,989,000, to remain available until September 30, 1988. 3,989,000

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses, Drug Enforcement Administration", $776,000, to remain available until September 30, 1988: *Provided,* That in appropriation language under this head in the Department of Justice Appropriations Act, 1987, as included in Public Law 99-500 and Public Law 99-591, delete "five hundred seventy-five" and substitute "1,030". 776,000

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $147,793,000, to remain available until September 30, 1988: *Provided,* That in appropriation language under this head in the Department of Justice Appropriations Act, 1987, as included in Public Law 99-500 and Public Law 99-591, delete the phrase "(not to exceed four hundred ninety, all of which shall be for replacement only)" and substitute "(not to exceed 1,796, of which 490 shall be for replacement only)". [1] 137,216,000

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SECTION 1. Section 205(h)(1)(A) of the Departments of Commerce, Justice, and State, and the Judiciary and Related Agencies Appropriations Act, fiscal year 1987, in Public Law 99-500 and Public Law 99-591 are amended by striking "All of the fees collected under subsection (d) shall be deposited in a separate account within the general fund of the Treasury of the United States" and inserting in lieu thereof "All of the fees collected under subsection (d) shall be deposited in a separate account within the general fund of the

[1] Amount adjusted pursuant to Sec. 506 (see p. 83, this volume).

Treasury of the United States, to remain available until expended".
[*Total, Department of Justice, $179,511,000.*]

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $61,750,000, to remain available until September 30, 1988. $61,750,000

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For an additional amount for "Acquisition and Maintenance of Buildings Abroad", $9,480,000, to remain available until expended: *Provided,* That these funds shall be available subject to the approval of the House and Senate Appropriations Committees' policies concerning the reprogramming of funds contained in House Report 99-669. 9,480,000

The Secretary of State shall not permit the Soviet Union to occupy the new chancery building at its new embassy complex in Washington, D.C. or any other new facility in the Washington, D.C. metropolitan area, until a new chancery building is ready for occupancy for the United States embassy in Moscow: *Provided,* That none of the funds appropriated in this Act or any prior Act may be obligated for the new office building in Moscow prior to November 1, 1987.

[*Total, Administration of Foreign Affairs, $71,230,000.*]

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for "Contributions to International Organizations", $268,831 for payment of the United States assessed contribution to the Interparliamentary Union: *Provided,* That in the appropriation language under the heading "Contributions to International Organizations" in the Department of State Appropriations Act, 1987, as included in Public Law 99-500 and Public Law 99-591, amend the phrase that reads "of which $130,000,000, to remain available until expended, shall become available for expenditure on October 1, 1987" to read as follows: "of which $65,000,000, to remain available until expended, shall become available for expenditure on October 1, 1987". 268,831

INTERNATIONAL COMMISSIONS

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For an additional amount for "American Sections, International Commissions", $474,000, to remain available until September 30, 1988. 474,000

[*Total, Department of State, $71,972,831.*]

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $37,800,000, to remain available until September 30, 1988. 37,800,000

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $100,000. $100,000

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,000,000. 1,000,000
[*Total, the Judiciary, $38,900,000.*]

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

FEDERAL SHIP FINANCING FUND

For payment to the Secretary of the Treasury for debt reduction, $1,375,000,000, to remain available until expended. 1,375,000,000
−1,375,000,000
(debt reduction)

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For an additional amount for "Grants and expenses", $33,195,000, to remain available until expended. 33,195,000

COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Commission for the Study of International Migration and Cooperative Economic Development as authorized by title VI of Public Law 99-603, $217,000, to remain available until expended. 217,000

DWIGHT DAVID EISENHOWER CENTENNIAL COMMISSION

EXPENSES

For necessary expenses of the Dwight David Eisenhower Centennial Commission as authorized by Public Law 99-624, $50,000, to remain available until expended. 50,000

FEDERAL COMMUNICATIONS COMMISSION

The authority under the Supplemental Appropriations Act, 1985 (Public Law 99-88) with respect to the relocation of the Fort Lauderdale Monitoring Station shall extend through fiscal year 1988 and under the same terms and conditions of Public Law 99-88.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $10,000,000 for disaster loan making activities, derived by transfer from the "Disaster Loan Fund": *Provided,* That hereafter, notwithstanding any law, rule or regulation, moneys in any fund established by the Small Business Act which are not needed for current operations shall remain in such funds and shall be available solely to carry out the provisions and purposes of programs operated from such funds pursuant to law as provided in appropriations Acts. *$10,000,000 (by transfer)*

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $8,098,176, of which $598,176 shall be used for purchase of Pakistani Rupees from the special account for the Informational Media Guarantee Program to carry out the provisions of section 1011(d) of the Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1442(d)). The limitation in Public Law 99-591 on the receipts to this appropriation from fees or other payments received from or in connection with English-teaching programs is increased by $650,000. 8,098,176

RADIO BROADCASTING TO CUBA

For an additional amount to carry out the provisions of section 7 of the Radio Broadcasting to Cuba Act, as amended (22 U.S.C. 1465(e)), $993,000, to remain available until expended. 993,000

[*Total, United States Information Agency, $9,091,176.*]

[*Total, Chapter I:*

[*New budget (obligational) authority (net)..... $332,937,007.*]

[*Appropriations..... 1,707,937,007.*]

[*Appropriations for debt reduction ..... −1,375,000,000.*]

[*By transfer..... 10,000,000.*]

CHAPTER II

DEPARTMENT OF DEFENSE—MILITARY

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and maintenance, Army", $37,500,000. 37,500,000

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $60,000,000. 60,000,000

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For an additional amount for "Operation and maintenance, Defense Agencies", $431,000,000. 431,000,000

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and maintenance, Army Reserve", $7,500,000. 7,500,000

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and maintenance, Navy Reserve", $2,500,000. $2,500,000

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and maintenance, Army National Guard", $5,000,000. 5,000,000

[*Total, Operation and Maintenance, $543,500,000.*]

PROCUREMENT

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft procurement, Air Force", $122,000,000. 122,000,000

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For an additional amount for "Research, development, test, and evaluation, Navy", $7,000,000, for Manufacturing Technology. 7,000,000

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

For an additional amount for "Research, development, test, and evaluation, Defense Agencies", $75,000,000. 75,000,000

[*Total, Research, Development, Test, and Evaluation, $82,000,000.*]

ADMINISTRATIVE PROVISIONS

SECTION 1. Within the funds appropriated for operation and maintenance of the Armed Forces for fiscal year 1987, and pursuant to section 403(a) of title 10, United States Code, funds may be used for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code.

SEC. 2. Section 9015 of the Department of Defense Appropriations Act, 1987 (as included in Public Laws 99-500 and 99-591) is amended by inserting "and not to exceed an additional $490,372,000 of funds otherwise available to the Department of Defense for military functions (except military construction) which would expire on September 30, 1987", directly following "(except military construction)".

SEC. 3. None of the funds previously appropriated to the Air Force may be used to conduct a trainer aircraft competition unless such competition includes candidate aircraft from at least two United States firms and at least one candidate aircraft is compliant with the T-46/Next Generation Trainer system specifications as it pertained to the source selection of the Next Generation Trainer in 1982.

SEC. 4. Notwithstanding section 2324(e)(1)(H) of title 10, United States Code, and section 9061 of the Department of Defense Appropriations Act, 1987, Public Laws 99-500 and 99-591, the Secretary of Defense may allow under covered contracts reasonable costs incurred to promote American aerospace exports at domestic and international exhibits.

SEC. 5. (a) None of the funds appropriated by this or any other Act for research, development, testing, and evaluation for the National Aeronautics and Space Administration (NASA) or the Department of Defense may be obligated or expended for the Advanced Launch System/Heavy Lift Launch Vehicle, hereinafter referred to as

"ALS", or for the design, construction, or modification of test facilities for rocket propulsion systems to be integrated into or be compatible with ALS, until the Committees on Appropriations of the Senate and the House of Representatives have received a plan, submitted jointly by the Secretary of Defense and the Administrator of NASA, and approved by the President, delineating the respective responsibilities of, and apportioning of costs to, NASA and the Department of Defense relative to the ALS program and the Committees on Appropriations of the Senate and the House of Representatives have established a date for the release of said funds: *Provided,* That such plan shall make maximum use of existing unique Federal testing facilities for rocket propulsion systems and shall identify the respective responsibilities of the Federal entities and facilities to be used for rocket propulsion research, development, and testing: *Provided further,* That notwithstanding the requirements set forth in subsection (a) $12,000,000 previously appropriated for fiscal year 1987 and allocated for concept definition of the ALS shall be available for that purpose.

(b) Of the funds appropriated for "Research, development, test, and evaluation, Defense Agencies" by this Act, $38,000,000 shall be transferred to NASA as a part of the ALS program utilizing facilities and budgetary resources of both NASA and components of the Defense Department: *Provided,* That funds appropriated by this or any other Act for research, development, test, and evaluation of the ALS system may be obligated and expended only for ALS variants which embody advanced technologies with a design goal of reducing the cost to launch payloads to low Earth orbit by a factor of ten compared with current space boosters costing less than $3,000 (in constant fiscal 1987 dollars) per pound to low Earth orbit: *Provided further,* That none of the funds appropriated by this Act may be obligated or expended for research, development, test, and evaluation intended to facilitate early deployment of a ballistic missile defense system.

SEC. 6. Notwithstanding section 3052(c) (1) and (2) of Public Law 99-570, the Secretary of the Navy shall immediately transfer an APS-125 radar system, to the United States Customs Service to be used for drug interdiction purposes: *Provided,* That $7,500,000 made available in Public Law 99-349, the Urgent Supplemental Appropriations Act of 1986, for an APS-138 radar system shall be made available to the Navy for procurement of an APS-139 radar system as replacement of the radar transferred to the United States Customs Service.

SEC. 7. The Secretary of the Army, as Executive Agent for the Department of Defense, may authorize activities on the part of the Armed Forces in celebration of the Bicentennial of the Constitution, and in support of Congressional Bicentennial activities. Such sums as are necessary to pay the expenses of these activities shall be made available from funds otherwise appropriated to the Department of Defense, except that such funds shall not be counted against the limitation on funds available for public affairs or legislative liaison activities of the Department of Defense.

SEC. 8. Within seven days after enactment of this Act, the Secretary of Defense shall submit a report to the Congress, in appropriate classified and unclassified form, regarding the implementation of any agreement between the governments of the United States and Kuwait for United States military protection of Kuwaiti shipping, which includes a plan which fully meets the security needs of our forces, in conjunction with the forces of our friends and allies in the Persian Gulf region, and specifically addresses, at a minimum:

(a) an assessment of the threats to American forces, to Kuwaiti interests and shipping, and otherwise impacting on the

interests of the United States and its friends and allies in the Persian Gulf region;

(b) the Rules of Engagement, alert status and readiness conditions under which our military forces will operate under in the Persian Gulf, and when such conditions will be in force; and

(c) cooperative arrangements entered into, being negotiated or contemplated with our European allies with a stake in the Persian Gulf, who have forces deployed or planned for deployment in the Persian Gulf region, and with states littoral to the Persian Gulf for a shared security system, including provision for air cover of those forces.

SEC. 9. Notwithstanding any other provision of law, payments received hereafter as compensation for damages to the USS Stark and other United States governmental expenses arising from the attack on the USS Stark shall be credited to applicable Department of Defense appropriations or funds available for obligation on the date of receipt of such payments.

SEC. 10. None of the funds appropriated for the Department of Defense in fiscal year 1987 are available for remuneration of any individual or entity associated with fund raising for the restoration of the Battleship Texas: *Provided,* That the grant for the restoration should be made to the Texas Parks and Wildlife Department vice the Battleship Texas Advisory Board of the State of Texas.

UNAUTHORIZED APPROPRIATIONS

SEC. 11. (a) Notwithstanding section 9126 or section 9133 of the Department of Defense Appropriations Act, 1987 (as contained in section 101(c) of the joint resolution entitled "Joint resolution making continuing appropriations for fiscal year 1987, and for other purposes", Public Law 99-500 and Public Law 99-591), only funds specifically authorized by the Congress in accordance with section 502 of the National Security Act of 1947 may be obligated or expended for intelligence or intelligence-related activities.

(b) All intelligence and intelligence-related activities for which funds were appropriated in the Defense Appropriations Act, 1987 shall be considered specifically authorized by Congress pursuant to section 502 of the National Security Act of 1947.

[*Total, Chapter II, new budget (obligational) authority, $747,500,000*]

CHAPTER III

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL INVESTIGATIONS

Using funds previously appropriated in the Energy and Water Development Appropriations Act, 1987, Public Law 99-500 and Public Law 99-591, the Secretary of the Army is directed to undertake the following studies: Ohio River Water Development Study, between Rivermile 40-491, Ohio; Maumee Bay State Park, including preconstruction engineering and design, Ohio; St. Johns County, including preconstruction and design, Florida; Jacksonville Harbor, St. John's River and Intracoastal Waterway Study, Florida; St. John's River Study, Florida; and Water Resources Based Economic Development Computer Model (to continue design and testing) and, in addition, $350,000 for the purposes of studying and evaluating at an estimated cost of $850,000 alternative disposal sites to the cur-

rently active San Jacinto disposal area on Galveston Island at full Federal expense; the Secretary of the Army is also directed to undertake environmental studies and submit recommendations to the Committees on Appropriations of the House and Senate on the advisability of modifying project operation and maintenance requirements, assuming that the current disposal site will no longer be available for extensive Federal use in the near future.

CONSTRUCTION, GENERAL

The Corps of Engineers is directed to proceed with the Fairfield Vicinity Streams, California, project under the provisions of section 117 of Public Law 99-190.

Using funds previously provided in the Energy and Water Development Appropriations Acts, 1986 and 1987 (Public Laws 99-141, 99-500 and 99-591), the Secretary of the Army is directed to undertake the following projects in the amounts as specified hereafter:

Project	Amount
Port Austin Harbor, Michigan	$2,800,000
Sand Island Beach, Hawaii	$600,000
Wellsburg, West Virginia (Ohio River milepost 74.8 to 72.8)	
Cox Run Area	$50,000
Middle School Area	$50,000
Water Works Vicinity, Wellsburg Municipal Pool and Park Vicinity	$200,000
Main Street Areas	$100,000
Sistersville, West Virginia City Park Area	$50,000
Glen Dale, West Virginia	
Glen Dale Airport	$125,000
Sewer Outfalls	$125,000

In regard to the Wellsburg, Sistersville and Glen Dale projects, the Congress finds that an emergency exists in satisfaction of the requirements of Section 14—Emergency Streambank and Shoreline Protection.

Using funds previously provided in the Energy and Water Development Appropriations Act, 1987 (Public Law 99-500 and Public Law 99-591), the Secretary of the Army is directed to use $5,000,000 to initiate land acquisition activities as described in section 1114 of Public Law 99-662.

OPERATION AND MAINTENANCE, GENERAL

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and Maintenance, general", $125,000 to be derived by transfer from "General Investigations" to perform a cumulative environmental analysis of section 55 measures along the 46-mile reach of the Platte River between Hershey, Nebraska, and the Lincoln-Dawson County line. *$125,000 (by transfer)*

OPERATION AND MAINTENANCE, GENERAL

Of amounts appropriated for this account in Public Laws 99-500 and 99-591, such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that fund. *—66,750,000 (trust fund transfer)*

REVOLVING FUND

The Corps of Engineers is directed to advertise and procure an automated system that adheres to specifications developed by the Corps of Engineers for civil program requirements without regard to the Army Information Architecture Tier 2 standards for operating systems.

GENERAL PROVISIONS

The Secretary of the Army shall file a report with the appropriate committees of the House of Representatives and the Senate within ninety days after a written request is made pursuant to the provisions of subsection (m) of section 103 of Public Law 99-662 indicating the action taken on the request. In addition, the Secretary of the Army shall file a report with the appropriate committees of the House of Representatives and the Senate within ninety days after enactment of this Act listing any project or study falling under the provisions of subsection (e)(1) of section 103 of Public Law 99-662.

Pursuant to the Federal Advisory Committee Act (Public Law 92-463), the Secretary of the Army is directed to establish an advisory committee for the Denison Dam (Lake Texoma), Red River, Texas and Oklahoma project authorized by the Flood Control Act approved June 28, 1938 (52 Stat. 1219). The purpose of the Committee shall be advisory only and it shall provide information and recommendations to the Corps of Engineers regarding the operations of Lake Texoma for its congressionally authorized purposes. The Committee shall be composed of representatives equally divided among the project purposes and between the States of Texas and Oklahoma.

The Corps of Engineers, taking into consideration recommendations of the Southwestern Power Administration and the Lake Texoma Advisory Committee, shall, to the extent feasible, develop a management plan for the conservation pool in Lake Texoma that:

(1) attempts to maintain a water surface elevation between 617 and 612 msl: *Provided however,* That hydroelectric power will be generated to help satisfy electric loads when the water surface elevation is between 617 and 612 msl;

(2) when the water surface elevation drops to 612 msl or lower, implements a public information program;

(3) when the water surface elevation is between 612 and 607 msl, provides for the Corps to notify the SWPA that hydroelectric power generation should only be made when it is needed for rapid response, short term peaking purposes as determined by the power scheduling entity;

(4) when the water surface elevation is between 607 and 590 msl—

(a) provides for the Corps to notify the SWPA that hydroelectric power generation should only be made to satisfy critical power needs on the power scheduling entity's electrical system as determined by the power scheduling entity; and

(b) provides for the Corps of Engineers to notify municipal and industrial water users that they should implement water conservation measures designed to lessen the impact of municipal and industrial water withdrawals.

Any amendments to the current water control plan specified above shall not supersede or adversely affect any existing permit, lease license contract, public law or flood control operation relating to Denison Dam (Lake Texoma). The management plan shall have no impact upon the provisions of section 838 of the Water Resources Development Act of 1986. The management plan shall be reevaluated on or after September 30, 1989 by the Corps of Engineers, taking into consideration the recommendations of the Southwestern Power Administration and the Lake Texoma Advisory Committee.

The United States Army Corps of Engineers, Tulsa District, shall issue a final report on the Oklahoma portion of the comprehensive study of the Red River Basin, Oklahoma, Arkansas, Louisiana and Texas, no later than September 30, 1988.

The management plan specified above should be formally processed to the Committees on Environment and Public Works and Public Works and Transportation in the Senate and House of Representatives, respectively, if appropriate, for authorization as required prior to any amendments to the current operating plan that could impact health and safety, authorized purposes, or expose the Federal Government to liability. None of the funds in this Act or any other Act relating to water resource development may be used to construct or enter into an agreement to construct additional hydroelectric power generation units at Denison Dam (Lake Texoma) until September 30, 1989.

Section 91 of the Water Resources Development Act of 1974 is amended by striking out "$28,725,000" in the last sentence and inserting in lieu thereof "$30,500,000".

[*Total, Department of the Army (by transfer), —$66,625,000.*]

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION PROGRAM

(TRANSFER OF FUNDS)

For an additional amount for the Department of the Interior, Bureau of Reclamation, "Construction Program", for the cleanup of Kesterson Reservoir and San Luis Drain of the San Luis Unit, Central Valley Project, to remain available until expended, $5,600,000, to be derived by transfer of unobligated balances in the "Loan Program": *Provided*, That no funds may be obligated for this purpose until the issuance of a waste discharge permit by the Central Valley Regional Water Resources Control Board and a determination by the California Department of Health Services on the classification of the waste at Kesterson Reservoir and San Luis Drain. *$5,600,000 (by transfer)*

In addition, title II of Public Law 99-591 (100 Stat. 3341-200, 201), dated October 30, 1986, "Department of the Interior, Bureau of Reclamation, Construction Program (Including Transfer of Funds)", is amended by striking out "by August 1, 1987,".

Using funds previously provided in the Energy and Water Development Appropriations Act, 1987 (Public Law 99-500 and Public Law 99-591), the Secretary of the Interior is directed to undertake the following project in the amount specified hereafter:

Project	Amount
O'Neill Unit, Nebraska	$771,000

Using funds previously provided in the Energy and Water Development Appropriations Act, 1987 (Public Law 99-500 and Public Law 99-591), the Secretary of the Interior shall proceed with contracting for construction of the East-side and West-side roads and other features at the McGee Creek, Oklahoma, project in the amount specified hereafter:

Project	Amount
McGee Creek, Oklahoma	$4,800,000

LOAN PROGRAM

(TRANSFER OF FUNDS)

For an additional amount for "Loan program" for the United Water Conservation District, to remain available until expended, $570,000, to be derived by transfer of unobligated balances in the "Construction program" from Teton Dam Failure, Payment of Claims funds provided under Public Law 94-355 and Public Law 94-438. *$570,000 (by transfer)*

[*Total, Department of the Interior (by transfer), $6,170,000.*]

DEPARTMENT OF ENERGY

Power Marketing Administrations

SOUTHWESTERN POWER ADMINISTRATION

Notwithstanding provisions of title 5, U.S.C., except for section 5308, no funds approved for Southwestern Power Administration shall be used to pay the rates of basic pay and premium pay for power system dispatchers unless such rates are based on those prevailing for similar occupations in the electric power industry.

ADMINISTRATIVE PROVISION

None of the funds appropriated by this or any other Act to the Department of Energy shall be used by the Department to implement Section 2.2.2.2. of DOE/ER 0315 (financial and other incentives) in its review of Superconducting Super Collider proposals, in order to ensure that the Department of Energy bases its final decision on where to site the facility solely on the overall suitability of the site.

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

Of the amounts heretofore appropriated and made available for Energy Supply, Research and Development Activities, an additional $1,200,000 shall be for completion of the MOD-5-B Wind Turbine Project.

[*Total, Chapter III, (by transfer), −$60,455,000.*]

CHAPTER IV

FOREIGN ASSISTANCE AND RELATED PROGRAMS

Multilateral Economic Assistance

Funds Appropriated to the President

International Financial Institutions

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For an additional amount for payment to the International Development Association by the Secretary of the Treasury, $207,476,749 for the United States contribution to the seventh replenishment, to remain available until expended. 207,476,749

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For an additional amount for payment to the International Finance Corporation by the Secretary of the Treasury, $7,205,610 for the United States share of the increase in subscriptions to capital stock, to remain available until expended. $7,205,610

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For an additional amount for payment to the African Development Fund by the Secretary of the Treasury, $36,639,000 for the United States contribution to the fourth replenishment of the African Development Fund, to remain available until expended. 36,639,000

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For an additional amount for payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $6,492,127 to remain available until expended. 6,492,127

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $17,375,058. *17,375,058 (limitation on callable capital subscriptions)*

[*Total, International Financial Institutions, $257,813,486.*]

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

ASSISTANCE FOR CENTRAL AMERCIA

(TRANSFER OF FUNDS)

(a) For an additional amount for the "Economic support fund", $300,000,000, for use pursuant to this heading for Central America, to be derived by transfer from the following amounts appropriated in prior appropriations Acts for the Department of Defense: "Aircraft Procurement, Army", fiscal year 1985, $10,000,000; "Missile Procurement, Army", fiscal year 1985, $15,000,000; "Weapons and Tracked Combat Vehicles, Army", fiscal year 1985, $20,000,000; "Procurement of Ammunition, Army", fiscal year 1985, $5,000,000; "Other Procurement, Army", fiscal year 1985, $37,000,000; "Aircraft Procurement, Navy", fiscal year 1985, $19,000,000; "Weapons Procurement, Navy", fiscal year 1985, $35,000,000; "Shipbuilding and Conversion, Navy", fiscal year 1983, $45,000,000; "Other Procurement, Navy", fiscal year 1985, $5,000,000; "Procurement, Marine Corps", fiscal year 1985, $8,000,000; "Aircraft Procurement, Air Force", fiscal year 1985, $101,000,000: *Provided,* That of the funds obligated in fiscal year 1987 not more than $87,000,000 shall be expended prior to October 1, 1987. *300,000,000 (by transfer)*

(b) Funds transferred pursuant to paragraph (a) shall remain available until September 30, 1987: *Provided,* That the President shall make available the $300,000,000 transferred pursuant to paragraph (a) for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to Economic support fund assist-

ance) for the countries of Central America with democratically elected governments as follows:

$54,750,000 shall be made available only for assistance for Guatemala,

$54,750,000 shall be made available only for assistance for Costa Rica,

$59,750,000 shall be made available only for assistance for Honduras,

$129,750,000 shall be made available only for assistance for El Salvador,

$1,000,000 shall be made available only for assistance for Belize.

(c) Of the funds specified for El Salvador in paragraph (b), $75,000,000 shall be made available only for earthquake relief and reconstruction which shall be used in accordance with the authorities contained in section 491 of the Foreign Assistance Act of 1961. Funds made available for the purposes of this paragraph shall be accounted for separately.

(d) Of the funds specified in paragraph (a), less those amounts designated for earthquake assistance by paragraph (c), not less than 40 percent shall be used for assistance in accordance with the policy directions, purposes, and authorities of chapter 1 and chapter 9 of part I of the Foreign Assistance Act of 1961 and the remainder shall be used in a manner which will generate local currencies for use in accordance with those policy directions, purposes, and authorities.

(e) The assistance specified in paragraph (b) shall be in addition to the amounts previously allocated for fiscal year 1987 for these countries pursuant to section 653 of the Foreign Assistance Act of 1961.

(f) The local currencies generated from the funds specified in paragraph (b) for El Salavdor shall be used for projects described in section 702(e)(2) of the International Security and Development Cooperation Act of 1985 (and of those local currencies, not less than 50 percent shall be for projects assisting agarian reform and the agricultural sector and not less than 10 percent shall be used for judicial reform).

(g) Of the aggregate of the funds specified in paragraph (b), $10,000,000 shall be made available only for Child Survival Fund activities in the Central American democracies.

(h) The assistance provided under this heading shall be made available consistent with the policies contained in section 702 of the International Security and Development Cooperation Act of 1985 (relating to El Salvador), section 703 of that Act (relating to Guatemala), and chapter 6 of part I of the Foreign Assistance Act of 1961 (relating to the Central American Democracy, Peace, and Development Initiative).

(i) Funds made available for assistance pursuant to this heading may be obligated only in accordance with the congressional notification procedures applicable under section 523 of the Foreign Assistance and Related Programs Appropriations Act, 1987, and section 634A of the Foreign Assistance Act of 1961.

(j) Of the funds specified for Honduras in paragraph (b), $20,000,000 shall be obligated, but shall not be expended, except as provided in the fourth proviso, until the Government of Honduras and an American citizen, whose property and businesses in the vicinity of Trujillo, Honduras were affected by actions of the Government of Honduras with respect to the Regional Military Training Center, reach a settlement concerning compensation: *Provided,* That in order to facilitate such a settlement the Department of State shall select an independent factfinder. The factfinder shall correct and expand, as may be appropriate, the exising factfinder's report. Such report shall be issued by September 30, 1987: *Provided further,* That if the two parties have not reached a full and final

settlement of this matter, including a complete waiver of further claims and liabilities against the Governments of Honduras and the United States, by November 30, 1987, then the Department of State shall request that both parties submit the disagreement to binding international arbitration in accordance with the rules of procedure of the Inter-American Commercial Arbitration Commission. The Commission shall select the arbitrators, and may appoint such experts as it finds necessary in order to establish a base of factual and financial information for the case: *Provided further,* That if the Government of Honduras refuses to agree to binding international arbitration, then the $20,000,000 shall be deobligated and immediately returned to the Treasury of the United States: *Provided further,* That if the United States citizen refuses to agree to binding international arbitration and refuses to agree that the award resulting from the arbitration will constitute a full and final settlement of any and all claims, liabilities and demands, including those which may be directed at the United States, its officers, agents and employees, arising directly or indirectly from the establishment of the Regional Military Training Center, then the $20,000,000 shall be made available for expenditure to the Government of Honduras: *Provided further,* That arbitrators shall consider maintenance costs, interest costs, professional fee costs, land, business and asset valuations and all other matters they deem appropriate: *Provided further,* That nothing in this provision shall prevent the two parties prior to a final arbitration award from reaching a binding full and final written agreement outside the arbitration proceedings: *Provided further,* That funds previously appropriated for the Economic support fund shall be used to pay for the reasonable costs of the activities of the factfinder, the International Arbitration Commission, the arbitrators and the experts appointed by the arbitrators.

ASSISTANCE IN SUPPORT OF SOLIDARITY

For an additional amount for the "Economic Support Fund", $1,000,000, which shall be made available, notwithstanding any other provision of law, only for the support of the independent Polish trade union "Solidarity". $1,000,000

ASSISTANCE FOR SOUTHERN AFRICA

For an additional amount for "Energy and selected development activities, Development Assistance", $50,000,000 to remain available until September 30, 1988: *Provided,* That none of these funds may be available for activities in Mozambique or Angola: *Provided further,* That none of these funds may be available to any country for which the President proposes to disburse funds within the Southern Africa Development Coordination Conference until the President certifies that such country (1) has not advocated the form of terrorism, commonly known as "necklacing", used against South African blacks; (2) has provided assurances that it has taken action against any person who has been found to have practiced necklacing against South African blacks; and (3) is not knowingly allowing terrorists who practice necklacing to operate in its territory: *Provided further,* That such funds shall be made available only as follows: 50,000,000

(a) $37,500,000 shall be made available to assist the member states of the Southern Africa Development Coordination Conference (SADCC) in carrying out the most urgent sector projects supported by SADCC in the following sectors: transportation and communications, energy (including the improved utilization of electrical power sources which already exist in the member states and offer the potential to swiftly reduce the dependence of those states on South Africa for electricity), agricultural

research and training, and industrial development and trade (including private sector initiatives): *Provided,* That of this amount not less than 60 percent shall be used in the transportation sector: *Provided further,* That none of the funds made available under this paragraph may be made available for the design, rehabilitation, construction, or equipping of any rail or road transportation corridor other than the Northern Corridor, which links southern Africa with Dar es Salaam, Tanzania.

(b) $12,500,000 shall be made available for projects and activities for disadvantaged South Africans in accordance with section 535 of the Foreign Assistance Act of 1961, or for humanitarian assistance for the member states of SADCC. Assistance for the member states of SADCC may include such activities as: transport of emergency food and medical supplies; refugee assistance; and disaster relief and rehabilitation assistance which shall be provided pursuant to the authorities contained in section 491 of the Foreign Assistance Act.

(c) Of the funds made available for the SADCC member countries for humanitarian assistance by paragraph (b), up to $5,000,000 may be made available for the United Nations Children's Fund's emergency appeals for affected countries in southern Africa.

(d) None of the funds appropriated by this Act for southern Africa shall be obligated or expended until the President has submitted to the House Foreign Affairs Committee, the Senate Foreign Relations Committee, and the Committees on Approprations the third quarter Project Accounting Information System Report of all economic assistance funds administered by the Agency for International Development that are allocated for southern Africa and which were authorized by the International Security and Development Cooperation Act of 1985 and Public Law 99-440 and, which pursuant to such authorizations were subsequently appropriated.

[*Total, Agency for International Development, $51,000,000.*]

INDEPENDENT AGENCIES

PEACE CORPS

For an additional amount to carry out the provisions of the Peace Corps Act (75 Stat. 612) (22 U.S.C. 2501, et seq.), $7,200,000, to remain available until September 30, 1988. $7,200,000

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE

For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, $50,000,000, which shall be used only for the Philippines: *Provided,* That amounts appropriated under this heading shall be available notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956. 50,000,000

FOREIGN MILITARY CREDIT SALES

For an additional amount to carry out the provisions of section 23 of the Arms Export Control Act, $13,000,000 of which $10,000,000 shall be available only for Morocco, and $3,000,000 shall be available only for Kenya. $13,000,000

[*Total, Military Assistance, $63,000,000.*]

EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

LIMITATION ON PROGRAM ACTIVITY

Notwithstanding the "limitation on program activity" contained in title IV of the Foreign Assistance and Related Programs Appropriations Act, 1987 in Public Law 99-500 and Public Law 99-591, during the fiscal year 1987 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be reduced from $900,000,000 to $680,000,000 and shall be provided under the terms and conditions in the Foreign Assistance and Related Programs Appropriations Act of 1987 as they apply to the Export-Import Bank. −220,000,000
−220,000,000 (limitation on program activity)

GENERAL PROVISIONS

GUARANTY RESERVE FUND

Section 24(c) of the Arms Export Control Act is amended by striking the second paragraph and inserting the following:

"Funds provided for necessary expenses to carry out the provisions of section 23 of the Arms Export Control Act and of section 503 of the Foreign Assistance Act of 1961, as amended, may be used to pay claims on the Guaranty Reserve Fund to the extent that funds in the Guaranty Reserve Fund are inadequate for that purpose.".

REPEAL OF SECTION 215(2)

Section 215(2) of title II of the Military Construction Appropriations Act, 1987 as contained in Public Law 99-500 and Public Law 99-591 is hereby repealed.

INTER-AMERICAN DEVELOPMENT BANK

It is the sense of the Congress that United States economic and foreign policy interests in the western hemisphere would be best served if the Secretary of the Treasury were to adhere to the Administration's proposal to modify the voting procedures within the Inter-American Development Bank to require that decisions be taken by the board by a voting majority of 65 percent of the voting shares.

DAIRY SURPLUS PRODUCTS

Funds provided for new development projects of private entities and cooperatives utilizing surplus dairy products may also be used for development projects that include surplus dairy livestock under the Dairy Termination Program.

[*Total, Chapter IV:*

[*New budget (obligational) authority*	*$159,013,486.*]
[*By transfer*	*300,000,000.*]
[*Limitation on callable capital*	*17,375,058.*]
[*Limitation on program activity*	*−220,000,000.*]

CHAPTER V

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

PAYMENTS FOR THE OPERATION OF LOW-INCOME HOUSING PROJECTS

(INCLUDING RESCISSION)

Of the amounts made available under this head in section 101(g) of Public Laws 99-500 and 99-591 (100 Stat. 1783-242, 3341-242) for payments to public housing agencies and Indian housing authorities, $65,000,000 are rescinded and the balance shall be for payment of operating subsidies under section 9, United States Housing Act of 1937 (42 U.S.C. 1437g): *Provided,* That, notwithstanding section 9(d) of such Act, any amount of such balance not required for such purpose shall be made available only for increased liability insurance costs not reflected in the performance funding system formula (24 C.F.R. Part 990). —$65,000,000 *(rescission)*

For an additional amount for "Payments for the operation of low-income housing projects", $65,000,000, as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), to be available for obligation on September 25, 1987, and to remain available until September 30, 1988: *Provided,* That such amount shall be available only for insurance costs not reflected in the performance funding system formula. 65,000,000

RENT SUPPLEMENT

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), is further reduced in fiscal year 1987 by not more than $14,420,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts. —389,340,000 *(rescission)* —*14,420,000 (limitation on annual contract authority, indefinite)*

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1), is further reduced in fiscal year 1987 by not more than $2,699,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts. —72,873,000 *(rescission)* —*2,699,000 (limitation on annual contract authority, indefinite)*

COMMUNITY PLANNING AND DEVELOPMENT

URBAN RENEWAL LAND DISPOSITION PROCEEDS

Notwithstanding any other provision of law or other requirement, the City of Camden in the State of New Jersey is authorized to retain any land disposition proceeds from the financially closed-out Center City Urban Renewal Project (No. N.J. R.150) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Camden shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this section, all past and future earnings from such proceeds, including any interest.

[*Total, Department of Housing and Urban Development (net), —$462,213,000.*]

INDEPENDENT AGENCIES

American Battle Monuments Commission

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $3,000,000: *Provided,* That of the foregoing amount, $1,350,000 shall be available until expended and placed in a reserve for release at the discretion of the Secretary of the American Battle Monuments Commission after consultation with the Congress, and $150,000 shall be available until expended for the establishment of a memorial on Guadalcanal in the Solomon Islands. — $3,000,000

Consumer Product Safety Commission

SALARIES AND EXPENSES

Of the funds provided to the Consumer Product Safety Commission for "Salaries and expenses" in Public Law 99-500 and Public Law 99-591, an additional $20,000 shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission appointed pursuant to 15 U.S.C. 2053.

Environmental Protection Agency

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $12,000,000, to be derived by transfer from "Construction grants". — *12,000,000 (by transfer)*

RESEARCH AND DEVELOPMENT

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves deferral D87-54 relating to the Environmental Protection Agency, "Research and development", as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation. — *11,000,000, (deferral disapproval)*

ABATEMENT, CONTROL, AND COMPLIANCE

Of the funds appropriated to the Environmental Protection Agency for "Abatement, control, and compliance" in Public Law 99-500 and Public Law 99-591 for the purposes of the Asbestos School Hazards Abatement Act of 1984, an additional $2,000,000 shall be available for administrative expenses for section 206(d)(2) Public Law 99-519.

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves deferral D87-55 relating to the Environmental Protection Agency, "Abatement, control, and compliance", as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation. — *11,400,000 (deferral disapproval)*

(TRANSFER OF FUNDS)

For an additional amount for "Abatement, control, and compliance", $27,000,000, to remain available until September 30, 1988, and to be derived by transfer from "Construction grants". — *27,000,000 (by transfer)*

CONSTRUCTION GRANTS

Of the funds appropriated to the Environmental Protection Agency for "Construction grants" in Public Law 99-500 and Public Law 99-591, the $1,200,000,000 which was not to become available until enactment of a subsequent appropriations Act authorizing the obligation of such funds is hereby made available: *Provided,* That the $1,161,000,000 remaining after the transfers to "Salaries and expenses" and "Abatement, control, and compliance" shall be allocated and used in accordance with the provisions of the Water Quality Act of 1987 (Public Law 100-4). *$1,200,000,000 (release of funds)*

ADVANCES TO TRUST FUNDS

Pursuant to Public Law 99-500 and Public Law 99-591, amounts advanced to the Hazardous Substance Response Trust Fund shall remain available until expended.

HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

Of the funds provided to the Environmental Protection Agency for "Hazardous Substance Response Trust Fund" in Public Law 99-500 and Public Law 99-591, no more than $16,000,000 shall be available to carry out the purposes of the Emergency Planning and Community Right-to-Know Act of 1986 (Public Law 99-499).

[*Total, Environmental Protection Agency (by transfer), $39,000,000.*]

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For an additional amount for "Disaster relief", $57,475,000, to remain available until expended. 57,475,000

ADMINISTRATIVE PROVISION

The regulation changes to 44 CFR parts 59 and 60 promulgated by the Federal Emergency Management Agency and set forth at 51 Fed. Reg. 30306-30309 (August 25, 1986), which amended the definition, placement, and elevation of mobile homes in an existing mobile home park or mobile home subdivision, as previously defined, shall not be effective from enactment of this Act through September 30, 1988.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

CONSTRUCTION OF FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Construction of facilities", $303,000,000, to become available on September 25, 1987, and remain available until September 30, 1989, of which $300,000,000 shall be transferred to "Space flight, control and data communications". 303,000,000

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", $80,200,000, to remain available until expended. 80,200,000

MEDICAL CARE

Of the funds provided under this head in the conference report on H.R. 5313, Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1987, as enacted by Public Law 99-500 and Public Law 99-591, $44,178,000 shall remain available until September 30, 1988, to fund central procurement contracts for the acquisition of automated data processing equipment and contracts for major systems support in amounts not less than $1,000,000 for the Decentralized Hospital Computer Program and the Integrated Hospital System.

GENERAL OPERATING EXPENSES

Of the funds provided under this head in the conference report on H.R. 5313, Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1987, as enacted by Public Law 99-500 and Public Law 99-591, $34,178,000 shall remain available until September 30, 1988, to fund contracts in amounts not less than $1,000,000 for the acquisition of automated data processing equipment and services to support the modernization program of the Department of Veterans Benefits.

CONSTRUCTION, MAJOR PROJECTS

Of the unobligated balance available under this heading, not to exceed $2,000,000 shall be available for the settlement of a contractor's claim arising from the construction of an addition to Building No. 1 at the Veterans Administration Medical Center, Huntington, West Virginia; and, notwithstanding any other provision of law, not to exceed $900,000 from the unobligated balance under this heading shall be available for the settlement of a contractor's claim arising from the construction of the Basic Science Addition at the Veterans Administration Medical Center, Huntington, West Virginia, authorized pursuant to Public Law 92-541, as amended.

VETERANS JOB TRAINING

For payments to defray the costs of training and provision of incentives to employers to hire and train certain veterans as authorized by the Veterans' Job Training Act, as amended (29 U.S.C. 1721), $30,000,000, to remain available until September 30, 1989. $30,000,000

LOAN GUARANTY REVOLVING FUND

For expenses necessary to carry out Loan Guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title), $100,000,000, to remain available until expended. 100,000,000

ADMINISTRATIVE PROVISION

The mission of the Veterans Administration Medical Center at Walla Walla, Washington, shall not be changed from that in existence on January 1, 1987.

[*Total, Veterans Administration, $210,200,000.*]

[*Total, Chapter V:*

[*New budget (obligational) authority (net)*	*$111,462,000.*]
[*Appropriations*	*638,675,000.*]
[*Rescissions*	*−527,213,000.*]
[*By transfer*	*39,000,000.*]
[*Disapproval of deferrals*	*22,400,000.*]
[*Limitation on annual contract authority, indefinite*	*−17,119,000.*]

CHAPTER VI

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For an additional amount for "Management of lands and resources", $2,126,000, of which $1,255,000 for hazardous waste site activities in Oroville, Washington, shall remain available until September 30, 1988. $2,126,000

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for "Resource management", $3,100,000. 3,100,000

CONSTRUCTION AND ANADROMOUS FISH

For an additional amount for "Construction and anadromous fish", $15,000,000, to remain available until expended. 15,000,000

LAND ACQUISITION

For an additional amount for "Land acquisition", $5,815,000, to be derived from the Land and Water Conservation Fund, to remain available until expended. 5,815,000

[*Total, United States Fish and Wildlife Service, $23,915,000.*]

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SERVICE

For an additional amount for "Operation of the national park system", $18,250,000. 18,250,000

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 1987 by 16 U.S.C. 460l–10a is rescinded. −30,000,000 *(rescission of contract authority)*

LAND ACQUISITION AND STATE ASSISTANCE

For an additional amount for "Land acquisition and State assistance", $22,910,000, to be derived from the Land and Water Conservation Fund, to remain available until expended: *Provided,* That pursuant to 16 U.S.C. 251k, the Secretary may acquire the 270-acre parcel known as Keystone Spit on Whidbey Island, Washington, and convey such parcel to the State of Washington in exchange for the approximately 1,000 acres of tidelands owned by such State within the boundary of Olympic National Park: *Provided further,* That if recreational uses of these tidelands must be regulated, the National Park Service shall consult with the State of Washington prior to the implementation of any such regulations: *Provided further,* That the exchange must include the mineral rights of the tidelands. 22,910,000

ADMINISTRATIVE PROVISION

Notwithstanding any other provision of law, the pesticide application program described in the West Virginia Department of Natural Resources' permit application to conduct a pesticide (bacillus thuringiensis israelensis [Bti]) spraying program on the New River, West Virginia, to control the river's black fly (Simulium jenningsi) population, received by the Superintendent of New River Gorge National River, West Virginia, on September 9, 1986, is hereby approved as a demonstration project for a period of eight years from the date of enactment of this Act, unless the pesticide Bti is removed from the registered list of pesticides, as determined by the Environmental Protection Agency, at an earlier date. No additonal analyses, proposals, or approvals will be required for the State to conduct similar pesticide application programs during the period of the demonstration project provided herein. The State shall notify the National Park Service of its planned annual program at least ninety days in advance of spraying, and shall consider the recommendations provided by the National Park Service, the United States Fish and Wildlife Service, and other parties in the conduct of the pesticide application program. The State shall also enter into an indemnity agreement with the National Park Service which will protect the Service from all tort claims which might arise from the State's spraying program. The State and the National Park Service shall jointly conduct a monitoring program on the effects of the pesticide application, including the impact on natural, cultural and recreational values of the National River.

[*Total, National Park Service (net), $11,160,000.*]

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, investigations, and research", $2,597,000, of which $597,000 shall remain available until expended. $2,597,000

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For an additional amount for "Leasing and royalty management", $800,000: *Provided,* That none of the funds in this or any other Act may be used in implement, prior to November 1, 1987, a rule which modifies the product valuation guidelines of the Minerals Management Service. 800,000

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
ABANDONED MINE RECLAMATION FUND

Section 405(k) of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87) is amended by adding at the end thereof, "except for purposes of subsection (c) of this section with respect to the Navajo, Hopi and Crow Indian Tribes".

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian programs", $3,153,000: *Provided,* That not to exceed $226,000 shall be paid for the settlement of three appeals related to mineral leasing revenues that have been collected and disbursed to Indian allottees. 3,153,000

The Bureau of Indian Affairs shall not transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for such tribe or individual have been audited and reconciled and the tribe or individual has been provided with an accounting of such funds, and the appropriate Committees of the Congress and the tribes have been consulted with as to the terms of the proposed contract or agreement: *Provided,* That the Bureau may not implement any regulations (and any amendments to, or revisions of, regulations) relating to the Bureau of Indian Affairs' Higher Education Grant Program that were not in effect on March 1, 1987, until after Congress has completed the fiscal year 1988 appropriations process, nor may the Bureau implement or take steps leading to implementation of proposed initiatives, including but not limited to imposition of a flat fifteen per centum administrative fee for tribal contractors, and imposition of tuition fees at Bureau post-secondary schools, until Congress has reviewed all such initiatives and approved them as part of the fiscal year 1988 appropriations process.

GENERAL PROVISIONS

Any funds appropriated under Public Law 84-747 (64 Stat. 573) in satisfaction of judgment awarded the Choctaw Nation of Oklahoma in Docket Numbered 16 of Indian Claims Commission which have not been distributed on the date of enactment of this Act (including all interest and investment income accrued thereon) shall be held in trust by the Secretary of the Interior for the Choctaw Nation of Oklahoma and shall be invested under the Act of June 24, 1938 (25 U.S.C. 162a).

The funds may be used on an annual budgetary basis by the tribal governing body subject to the approval of the Secretary.

None of the funds in this or any other Act shall be available prior to March 31, 1988, to issue a patent for an oil shale mining claim located prior to enactment of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 181, et seq., 41 Stat. 437), as provided for under the General Mining Law of 1872, as amended (30 U.S.C. 22, et seq., 17 Stat. 91) except for patent applications C-012327, C-016671, C-023661, C-41836, C-43354, C-39464, C-38579, C-38402, C-35080, and C-36293.

[*Total, Department of the Interior (net), $43,751,000.*]

RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

STATE AND PRIVATE FORESTRY

(INCLUDING TRANSFER OF FUNDS AND DISAPPROVAL OF DEFERRAL)

For an additional amount for "State and private forestry", $8,000,000, of which $7,005,000 shall remain available until expended, and of which $995,000 shall be transferred to the "Forest Research" appropriation account of the Forest Service, to remain available until expended. $8,000,000

The Congress disapproves deferral D87-35 relating to the Forest Service, "State and private forestry", as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation. *797,000 (deferral disapproval)*

CONSTRUCTION

For an additional amount for "Construction", $1,000,000, to remain available until expended. $1,000,000

LAND ACQUISITION

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves deferral D87-36 relating to the Forest Service, "Land acquisition", as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation. *27,070,000 (deferral disapproval)*

TIMBER ROADS, PURCHASER ELECTION, FOREST SERVICE

(RESCISSION)

(INCLUDING DISAPPROVAL OF DEFERRAL)

Of the funds previously made available and unobligated in this permanent appropriation account, $30,000,000 is rescinded. −30,000,000 *(rescission)*

The Congress disapproves deferral D87-37 relating to the Forest Service, "Timber roads, purchaser election, Forest Service", as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation. *11,900,000 (deferral disapproval)*

HIGHWAY CONSTRUCTION: MOUNT ST. HELENS NATIONAL VOLCANIC MONUMENT

For payment of obligations incurred for construction of a road serving the Mount St. Helens National Volcanic Monument, $9,915,000, to be derived from the Highway Trust Fund (other than Mass Transit Account), to remain available until expended to liquidate the contract authority provided in title II of the Interior and Related Agencies Appropriations Act, 1987, as included in section 101(h) of Public Law 99-500 and Public Law 99-591. *9,915,000 (liquidation of contract authority)*

ACQUISITION OF LANDS FOR NATIONAL FORESTS

SPECIAL ACTS

Public Law 99-500 and Public Law 99-591, section 101(h), Interior and Related Agencies Appropriations Act, 1987, under this head, is amended by inserting ", Wasatch" after the word "Cache".

[*Total, Department of Agriculture (net), −$21,000,000.*]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

INDIAN HEALTH SERVICES

Personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full-time equivalent level of the Indian Health Service by the elimination of temporary employees by reduction in force, hiring freeze or any other means without Congress having reviewed and approved such a proposal as part of the fiscal year 1988 appropriations process.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $700,000. $700,000

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

Public Law 96-388, as amended (36 U.S.C. 1401 et seq.) is further amended as follows:

(1) 36 U.S.C. 1405(a) is amended by deleting the words "the President upon the recommendation of the Chairperson of the Council" and substituting "the Chairperson of the Council, subject to confirmation of the Council", and adding the following new sentence: "The Executive Director shall serve at the pleasure of the Council.";

(2) 36 U.S.C. 1405(b) is amended by striking the "." in subsection (2) and adding "; and" after "law" and adding the following new subsection:

"(3) implement decisions of the Council, in the manner directed by the Council, and perform such other functions as may be assigned from time to time by the Council, the Executive Committee of the Council, or the Chairperson of the Council.".

GENERAL PROVISION

Notwithstanding the provisions of Public Law 99-663, which established the Columbia River Gorge National Scenic Area, the Pierce National Wildlife Refuge and the Little White Salmon National Fish Hatchery shall continue to be administered, operated and maintained in accordance with the provisions of the National Wildlife Refuge System Administration Act, Fish and Wildlife Coordination Act, and Fish and Wildlife Act of 1956 by the U.S. Fish and Wildlife Service.

[Total, Chapter VI:

[New budget (obligational) authority (net)	*$23,451,000.]*
[Appropriations	*83,451,000.]*
[Rescission	*—30,000,000.]*
[Rescission of contract authority	*—30,000,000.]*
[Liquidation of contract authority	*9,915,000.]*
[Disapproval of deferrals	*39,767,000.]*

CHAPTER VII

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for "Training and employment services" for activities authorized by sections 236, 237, and 238 of the Trade Act of 1974, as amended, $20,000,000. 20,000,000

COMMUNITY SERVICE EMPLOYMENT FOR

OLDER AMERICANS

For an additional amount for "Community service employment for older Americans", to carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $7,800,000. 7,800,000

For an additional amount for "Community service employment for older Americans", to carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $2,200,000. $2,200,000

[*Total, Community Service Employment for Older Americans, $10,000,000.*]

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT

SERVICE OPERATIONS

For an additional amount for "State unemployment insurance and employment service operations", $65,000,000 from the Employment Security Administration account in the Unemployment Trust Fund, of which $15,000,000 shall be used to carry out the targeted jobs tax credit program under section 51 of the Internal Revenue Code of 1986, and of which $27,500,000 shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1987. *65,000,000 (limitation on trust fund transfer)*

[*Total, Department of Labor, $30,000,000.*]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HEALTH RESOURCES AND SERVICES

For an additional amount for "Health resources and services", $18,750,000 for carrying out title V of the Social Security Act, as amended. 18,750,000

Centers for Disease Control

DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for "Disease control, research, and training", $20,000,000. 20,000,000

National Institutes of Health

NATIONAL INSTITUTE ON AGING

For an additional amount for "National Institute on Aging", $750,000. 750,000

NATIONAL CENTER FOR NURSING RESEARCH

For an additional amount for "National Center for Nursing Research", $1,000,000. 1,000,000

[*Total, National Institutes of Health, $1,750,000.*]

Public Health Service

PUBLIC HEALTH EMERGENCY FUND

For carrying out title III, section 319 of the Public Health Service Act, as amended, $30,000,000 for the emergency provision of drugs determined to prolong the life of individuals with Acquired Immune Deficiency Syndrome, to remain available until September 30, 1988. 30,000,000

FAMILY SUPPORT ADMINISTRATION

WORK INCENTIVES

For an additional amount for "Work incentives", $23,000,000. $23,000,000

OFFICE OF HUMAN DEVELOPMENT SERVICES

FAMILY SOCIAL SERVICES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Family social services", $165,227,000 for part E of title IV of the Social Security Act, of which $43,583,000 shall be derived from unobligated balances in "Social Services Block Grant": *Provided,* That of the total additional amount, $127,184,000 shall be available for foster care and $38,043,000 shall be available for adoption assistance. 121,644,000
43,583,000
(by transfer)

For an additional amount for Home Delivered Nutrition Services under subpart 2 of part C of title III of the Older Americans Act of 1965, $1,400,000. 1,400,000

[*Total, Office of Human Development Services, $123,044,000.*]

[*Total, Department of Health and Human Services, $216,544,000.*]

DEPARTMENT OF EDUCATION

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

Of the funds appropriated for Rehabilitation Services and Handicapped Research for fiscal year 1987, $15,860,000 is available for Special Demonstration Programs under section 311(a)(b)(c).

VOCATIONAL AND ADULT EDUCATION

Of the $11,000,000 appropriated for fiscal year 1987 for title IV of the Carl D. Perkins Vocational Education Act, $7,050,000 shall be for activities authorized by part A, including $6,000,000 for section 404, $450,000 shall be for section 415 of part B, and $3,500,000 shall be for section 422 of part C.

STUDENT FINANCIAL ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Student financial assistance", $287,000,000, to be derived by transfer from "Guaranteed student loans". *287,000,000*
(by transfer)

The allotment of the State of Louisiana under subpart 3 of part A of title IV of the Higher Education Act of 1965, from funds appropriated for fiscal year 1987, shall be expended without regard to the provision of sections 415A(a), 415C(b) (6), (8) and (10) of such subpart.

HIGHER EDUCATION

For an additional amount for "Higher education", $3,300,000, of which $1,000,000 shall be for activities authorized under part B of title III of the Higher Education Act, $1,000,000 shall be for activities authorized under part A of title VI of said Act, and $1,300,000 shall be for activities authorized under part C of title IX of said Act. 3,300,000

CHICAGO LITIGATION SETTLEMENT

(TRANSFER OF FUNDS)

To enable the United States of America to satisfy in full any and all obligations it may have to provide financial assistance for the Chicago Board's Desegregation Plan under section 15.1 of the Consent Decree entered in the case United States v. Board of Education of the City of Chicago, 80 C 5124, and to resolve all claims of the Chicago Board and all litigation concerning the United States' obligations to the Chicago Board under section 15.1, there is hereby appropriated $83,000,000 to be derived by transfer of remaining unobligated or contingently obligated balances of appropriations for fiscal years 1983 through 1986 for the Department of Education that would have been expended or lapsed but for the escrow provisions established as a result of the litigation between the Chicago Board and the United States: *Provided*, That the Secretary of Education shall make these funds available to the Board to be used only for desegregation activities in accordance with the terms and conditions of the Consent Decree: *Provided further*, That these funds shall be made available to the Board in five equal annual grants beginning in fiscal year 1988: *Provided further*, That this $83,000,000 reappropriation constitutes full and final satisfaction of any and all past, present and future claims that the Chicago Board may have against the United States arising under or resulting from section 15.1 of the Consent Decree, and releases the United States from any further liability under section 15.1: *Provided further*, That the funds appropriated by this Act shall remain available until expended. *$83,000,000 (by transfer)*

[*Total, Department of Education, $3,300,000.*]

RELATED AGENCIES

National Commission To Prevent Infant Mortality

OPERATING EXPENSES

For "Operating expenses", $700,000, to remain available until September 30, 1988. 700,000

[*Total, Chapter VII:*
[*New budget (obligational authority* ..... *$250,544,000.*]
[*By transfer* ..... *413,583,000.*]
[*Limitation on trust fund transfer* ..... *65,000,000.*]

CHAPTER VIII

LEGISLATIVE BRANCH

SENATE

Payments to Widows and Heirs of Deceased Members of Congress

For a payment to Cecile F. Zorinsky, widow of Edward Zorinsky, late a Senator from Nebraska, $89,500. 89,500

Salaries, Officers and Employees

OFFICE OF THE SECRETARY

For an additional amount for "Office of the Secretary", $100,000. 100,000

ADMINISTRATIVE, CLERICAL AND LEGISLATIVE ASSISTANCE TO SENATORS

For an additional amount for "Administrative, Clerical and Legislative Assistance to Senators", $27,700, which shall not be available until July 1, 1987. $27,700

[*Total, Salaries, Officers, and Employees, $127,700.*]

MISCELLANEOUS ITEMS

For an additional amount for "Miscellaneous items", $1,300,000. 1,300,000

ADMINISTRATIVE PROVISIONS

SECTION 1. (a) The Secretary of the Senate shall, upon the written request of the Majority or Minority Leader of the Senate, transfer from any available funds in such Leader's allotment in the Leader's Representation Allowance (as defined in subsection (b)(1)) for any fiscal year (commencing with the fiscal year ending September 30, 1985) to such Leader's Expense Allowance (as defined in subsection (b)(2)) to such year such amount as is specified in the request. Any funds so transferred for any fiscal year at the request of either such Leader shall be available to such Leader for such year for the same purposes as, and in like manner and subject to the same conditions as, are other funds which are available to him for such year as his expense allowance as Majority or Minority Leader.

(b)(1) The term "Leader's Representation Allowance" means the Representation Allowance Account for the Majority and Minority Leaders established by section 197 of Public Law 99-88 (2 U.S.C. 31a-2).

(2) The term "Leader's Expense Allowance", when used in reference to the Majority or Minority Leader of the Senate, refers to the moneys available, for any fiscal year, to such Leader as an expense allowance and the appropriation account from which such moneys are funded.

SEC. 2. (a) The Secretary of the Senate is authorized to use any available funds (but not in excess of $25,000 for any fiscal year), out of the appropriation account (within the Contingent Fund of the Senate) for the Secretary of the Senate, to assist him in the proper discharge, within the United States, of his appropriate responsibilities to members of foreign parliamentary groups or other foreign officials.

(b) The provisions of subsection (a) shall be effective in the case of expenditures for fiscal years ending after September 30, 1986.

SEC. 3. (a) Effective July 1, 1987, the table contained in section 105(d)(1) of the Legislative Branch Appropriation Act of 1968, as amended (2 U.S.C. 61-1(d)(1)), is amended by striking out—

"$904,114 if such population is 5,000,000 but less than 7,000,000;" and inserting in lieu thereof

"$904,114 if such population is 5,000,000 but less than 6,000,000;

"$931,810 if such population is 6,000,000 but less than 7,000,000;".

(b) Effective July 1, 1987, the administrative and clerical allowance of each Senator from the State of Georgia and the State of North Carolina is increased to that allowed Senators from States having a population of six million but less than seven million, the population of said State having exceeded six million inhabitants.

(c) Effective July 1, 1987, the administrative and clerical allowance of each Senator from the State of Indiana, the State of Massachusetts, the State of Missouri, and the State of Virginia, is that allowed Senators from States having a population of five million but less than six million.

SEC. 4. The chairman of the Majority or Minority Conference Committee of the Senate may, during the fiscal year ending September 30, 1987, at his election, transfer not more than $40,000 from the appropriation account for salaries for the Conference of the Majority and the Conference of the Minority of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6). Any transfer made at such time or times as such chairman shall specify in writing to the Senate Disbursing Office. Any funds so transferred by the chairman of the Majority or Minority Conference Committee shall be available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6).

SEC. 5. Section 101(j) of Public Law 99-591 is amended by adding at the end thereof the following new sentence; "For purposes of the preceding sentence, the figure '$177,435,714' which appears in such H.R. 5203, in title I, under the item 'SALARIES, OFFICERS AND EMPLOYEES', shall be deemed to be '$177,535,714'.".

[*Total, Senate, $1,517,200.*]

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Elizabeth J. Grotberg, widow of John E. Grotberg, late a Representative from the State of Illinois, $75,100. $75,100

For payment to Joy Temes, daughter of Sala Burton, late a Representative from the State of California, $77,400. 77,400

[*Total, Payments to Widows and Heirs of Deceased Members of Congress, $152,500.*]

CONTINGENT EXPENSES OF THE HOUSE

STANDING COMMITTEES, SPECIAL AND SELECT

For an additional amount for "Standing committees, special and select", $1,950,000. 1,950,000

ALLOWANCES AND EXPENSES

For an additional amount for "Allowances and expenses", $9,508,000, including "Supplies, materials, administrative costs and Federal tort claims", $8,893,000, of which $6,845,000 shall remain available until expended for the purchase of a telephone switch for the House of Representatives; "Reemployed annuitants reimbursements", $368,000; and a special session or ceremony of the Congress in honor of the Bicentennial of the Constitution, $247,000, subject to adoption of an authorizing resolution. 8,893,000 368,000 247,000

[*Total, allowances and expenses, $9,508,000.*]

SALARIES, OFFICERS AND EMPLOYEES

For an additional amount for "Salaries, officers and employees", $371,000, including "Office of the Clerk", $280,000; "Office of the Sergeant at Arms", $72,000; and "Office of the Law Revision Counsel", $19,000. 280,000 72,000 19,000

[*Total, salaries, officers and employees, $371,000.*]

ADMINISTRATIVE PROVISION

Section 101(j) of the Legislative Branch Appropriations Act, 1987 (Public Law 99-500 and Public Law 99-591) is amended by inserting " 'House leadership offices,' " after " 'Allowances and expenses,' ".

[*Total, House of Representatives, $11,981,500.*]

JOINT ITEMS

CAPITOL POLICE

GENERAL EXPENSES

For an additional amount for "General expenses", $180,000. $180,000

CAPITOL GUIDE SERVICE

For an additional amount to "Capitol Guide Service", $109,000. 109,000

ADMINISTRATIVE PROVISIONS

Title I of the Legislative Branch Appropriations Act, 1987 (Public Law 99-500 and Public Law 99-591) is amended, in clause (4) of the paragraph relating to "Office of the Attending Physician" under the main heading "Joint Items", by striking out "eleven" and inserting in lieu thereof "twelve".

Effective October 18, 1986, section 101(j) of the joint resolution making continuing appropriations for the fiscal year 1987, and for other purposes (Public Laws 99-500 and 99-591; 100 Stat. 1783-287, 3341-287) is amended by inserting ", and the provisions of H.R. 5203 (to such extent and in such manner) shall be effective as if enacted into law" immediately before the period at the end.

[*Total, Joint Items, $289,000.*]

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $350,000. 350,000

[*Total, Chapter VIII, new budget (obligational) authority, $14,137,700.*]

CHAPTER IX

MILITARY CONSTRUCTION

ADMINISTRATIVE PROVISIONS

MATHER AIR FORCE BASE

The Department of Defense is directed to terminate all work in connection with the study for possible base closure of Mather Air Force Base, California.

FAMILY HOUSING, NAVY AND MARINE CORPS

In addition to any other funds which may be available for such purpose, the Secretary of the Navy is authorized to expend monies made available by the City of San Diego, California for the relocation or replacement of four family housing units in San Diego, California as a consequence of a final judgment in United States v. 35.934 Acres of Land, et al., Civil Action No. 800-0021-E in United States District Court for the Southern District of California.

TORREJON AIR BASE, SPAIN

It is the sense of the Congress that all facility construction costs associated with the relocation of the Tactical Fighter Wing at Torrejon Air Base, Spain, to another location, should be the responsibility of the North Atlantic Treaty Organization.

NAVAL AIR STATION, ADAK, ALASKA

Within the funds previously appropriated for military construction planning and design, Navy, $1,500,000 shall be available for design of a middle school at Naval Air Station, Adak, Alaska.

CHAPTER X

DEPARTMENT OF AGRICULTURE

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

Section 17(g)(1) of the Child Nutrition Act of 1966 is amended—

(1) by inserting "and" after "September 30, 1986,"; and

(2) by striking "and September 30, 1988" and all that follows through the end of the sentence and inserting in lieu thereof "September 30, 1988, and September 30, 1989.".

Office of the Secretary of Agriculture

INVESTIGATIONS OF CHANGES NEEDED IN FARM PROGRAMS IN ORDER TO RESTORE THE AMERICAN FARM ECONOMY

To enable the Secretary of Agriculture to investigate whether producers of basic agricultural commodities, including soybeans, favor the imposition of mandatory limits on the production of basic agricultural commodities, including soybeans, that will result in prices for such commodities that provide a fair return to the farm producer at not less than the cost of production, $6,000,000. $6,000,000

To enable the Secretary of Agriculture to investigate the quantity of each basic agricultural commodity, including soybeans, needed by crop year to meet domestic consumption, to maintain an adequate reserve, and to regain and retain our fair share of world markets, $2,000,000. 2,000,000

To enable the Secretary of Agriculture to investigate the changes needed in existing rules and regulations of the Department of Agriculture to provide for implementation of mandatory limits on the production of basic agricultural commodities, including soybeans, and nonrecourse loans on basic agricultural commodities, including soybeans, that reflect a fair return to the farm producer at not less than the cost of production, $2,000,000. 2,000,000

[*Total, Office of the Secretary of Agriculture, $10,000,000.*]

Agricultural Research Service

For an additional amount for "Agricultural Research Service", $9,891,000, to remain available until expended. 9,891,000

Cooperative State Research Service

For an additional amount for "Cooperative State Research Service", $300,000: *Provided,* That of the amounts appropriated under the heading "Cooperative State Research Service" in the Agri- 300,000

culture, Rural Development, and Related Agencies Appropriations Act, 1987, made applicable by section 101(a) of the Continuing Appropriations Act, 1987 (Public Law 99-500 and Public Law 99-591), for payments to agricultural experiment stations to carry out the purposes of the Hatch Act, as amended (7 U.S.C. 361a-361i), any monies available for allotment to any recipient, but withheld by the Secretary of Agriculture for failure to meet the matching requirements of the Hatch Act, may be reapportioned to other agricultural experiment stations and used to carry out the purposes of the Hatch Act: *Provided further,* That no experiment station that received funds under the Hatch Act during fiscal year 1986 shall receive a total allotment in fiscal year 1987 that exceeds the total allotment it received in fiscal year 1986.

For grants to States for the establishment and operation of international trade development centers, as authorized by the National Agricultural Research Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3292), $3,200,000, to remain available until expended. $3,200,000

[*Subtotal, Cooperative State Research Service, $3,500,000.*]

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension and teaching programs of the Department of Agriculture, where not otherwise provided, $30,200,000, to remain available until expended: *Provided,* That of available funds under "Agricultural Stabilization and Conservation Service, Rural Clean Water Program", $6,000,000 are rescinded. 30,200,000

EXTENSION SERVICE

For an additional amount for "Extension Service, Federal administration and coordination", for special grants for financially stressed and dislocated farmers, $300,000, to remain available until expended. 300,000

[*Total, Cooperative State Research Service, $34,000,000.*]

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

For an additional amount for "Animal and Plant Health Inspection Service", $8,500,000. 8,500,000

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

(TRANSFER OF FUNDS)

For an additional amount for "Agricultural Stabilization and Conservation Service, Salaries and expenses", $24,000,000: *Provided,* That not to exceed $24,000,000 of the above amount may be transferred to this account from the Commodity Credit Corporation. *24,000,000 (by transfer)*

DAIRY INDEMNITY PROGRAM

For the Dairy Indemnity Program, an additional $553,000, to remain available until expended: *Provided,* That this amount shall be transferred to the Commodity Credit Corporation: *Provided further,* That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursements. 553,000
−6,000,000 *(rescission)*

General Sales Manager

(TRANSFER OF FUNDS)

Not to exceed an additional $705,000 may be transferred from the Commodity Credit Corporation funds to the General Sales Manager to help implement export programs, including the adjustment of the offering price to remain competitive, as authorized by law, and programs mandated in the Food Security Act of 1985. *$705,000 (by transfer)*

Commodity Credit Corporation

REIMBURSEMENT FOR NET REALIZED LOSSES

(TRANSFER OF FUNDS)

To reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to the Act of August 17, 1961 (15 U.S.C. 713a-11, 713a-12), $5,553,189,000, such funds to be available, together with other resources available to the Corporation, to finance the Corporation's programs and activities during fiscal year 1987: *Provided,* That of the foregoing amount not to exceed the following amounts shall be available for the following programs: export guaranteed loan claims, $300,000,000; conservation reserve program, $400,000,000; additional payments to producers under section 633(B) of the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987 (Public Law 99-500 and Public Law 99-591), which shall be made to cover the difference between the partial payment and the amount of the full claim, $135,000,000, and for other disaster payments required by the Farm Disaster Assistance Act of 1987, $25,000,000; and interest payments to the United States Treasury, $440,000,000: *Provided further,* That five per centum of the funds available for the conservation reserve program in this Act shall be transferred to the conservation operations account of the Soil Conservation Service for services of its technicians in carrying out the conservation programs of the Food Security Act of 1985. 5,553,189,000

HONEY

Section 1001(2)(C) of the Food Security Act of 1985 (7 U.S.C. 1308(2)(C)), as amended by Public Law 99-500 and Public Law 99-591, is amended—

(1) by inserting "(i)" after "(C)", and

(2) by adding at the end the following:

"(ii) No certificate redeemable for stocks of a commodity held by the Commodity Credit Corporation may be redeemed for honey held by the Corporation.".

Farmers Home Administration

The Secretary may adjust interest rates on existing nonsubsidized loans if he determines such interest rates are excessive in relation to prevailing commercial rates for comparable loans: *Provided,* That such rate adjustments shall constitute a change in the loan agreement and not a new loan.

The limitations on loan prepayments contained in section 634 of the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987 shall remain in effect through September 30, 1987.

RURAL DEVELOPMENT GRANTS

For a grant pursuant to section 310B(c) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1932), for the development of Choctaw Regional Rural Industrial Park, $3,000,000. 3,000,000

RURAL HOUSING INSURANCE FUND

During fiscal year 1987, and within the resources and authority available, obligations for direct loans and related advances pursuant to section 515 of the Housing Act of 1949 (42 U.S.C. 1485), shall not exceed $554,900,000. *$554,900,000 (limitation on direct loans)*

For an additional amount for rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, $115,000,000, to be used for contracts for newly constructed units financed under sections 514, 515 and 516 of the Housing Act of 1949 (42 U.S.C. 1484, 1485, 1486). *115,000,000 (by transfer)*

LOAN REGULATIONS

Hereafter, funds appropriated or available to the Farmers Home Administration under this or any other Act to make or to service farm loans shall be available for continuing assistance to delinquent borrowers on the basis of the policies contained in Farmers Home Administration Announcement Number 1113-1960, dated November 30, 1984.

Hereafter, none of the funds appropriated or made available by this or any other Act, or otherwise made available to the Secretary of Agriculture or the Farmers Home Administration, may be used to implement section 1944.16(c)(1) of title 7, Code of Federal Regulations, as published in 52 Federal Register 11983 (April 14, 1987) or any other regulation that would have the same effect as such regulation.

RURAL ELECTRIFICATION ADMINISTRATION

Hereafter, notwithstanding section 306A(d) of the Rural Electrification Act of 1936 (7 U.S.C. 936a(d)), a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the borrower, prepay such loan (or any loan advance thereunder) in accordance with section 306A of such Act.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for "Soil Conservation Service, Watershed and flood prevention operations" for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented, $300,000. 300,000

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

CHANGE IN TUITION LIMITATION FOR PRIVATE SCHOOLS

(a) School Lunch Programs.—Section 12(d)(5) of the National School Lunch Act (42 U.S.C. 1760(d)(5)) is amended to read as follows:

"(5) 'School' means (A) any public or nonprofit private school of high school grade or under, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor), and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this

paragraph, the term 'nonprofit', when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1954.".

(b) SCHOOL BREAKFAST PROGRAMS.—Section 15(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1784(c)) is amended to read as follows:

"(c) 'School' means (A) any public or nonprofit private school of high school grade or under, including kindergarten and preschool programs operated by such school, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor), and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this paragraph, the term 'nonprofit', when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1954.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on July 1, 1987.

REIMBURSEMENT

Of the funds made available under the heading "CHILD NUTRITION PROGRAMS" of title III of the provisions made effective by section 101(a) of Public Law 99-190 but not requested through an official budget request transmitted to the Congress, $167,500,000 shall be available to the Secretary of Agriculture to reimburse State agencies for meals served under child nutrition programs conducted under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) in September 1987.

SPECIAL MILK PROGRAM

For an additional amount for "Food and Nutrition Service, Special milk program", $3,426,000. $3,426,000

FOREIGN AGRICULTURAL SERVICE

For an additional amount for "Foreign Agricultural Service" to offset increases in overseas costs, $1,500,000. 1,500,000

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

(TRANSFER OF FUNDS)

Funds available to the Department of Agriculture during fiscal year 1987 shall be available to assist an international organization in meeting the costs, including salaries, fringe benefits and other associated costs, related to the employment by the organization of Federal personnel that may transfer to the organization under the provisions of 5 U.S.C. 3581-3584, or of other well-qualified United States citizens, for the performance of activities that contribute to increased understanding of international agricultural issues. Such funds may be transferred for such purpose from one appropriation to another or to a single account: *Provided,* That not to exceed a total of $500,000 may be expended for such purpose and such amount shall remain available until expended.

[*Total, Department of Agriculture (net), $5,618,359,000.*]

FOOD AND DRUG ADMINISTRATION

For an additional amount for "Food and Drug Administration, Salaries and expenses", $1,500,000 for evaluation and analysis of the drugs, vaccines, and tests for treatment of Acquired Immune Deficiency Syndrome. $1,500,000

For an additional amount for orphan drug grants and contracts, $500,000. 500,000

Section 3 of the Saccharin Study and Labeling Act (21 U.S.C. 348 nt.) is amended by striking out "May 1, 1987" and inserting in lieu thereof "May 1, 1992".

[*Total, Department of Health and Human Services, $2,000,000.*]

[*Total, Chapter X:*
[*New budget (obligational) authority (net)* ..... *$5,620,359,000.*]
[*Appropriations* ..... *5,626,359,000.*]
[*Rescissions* ..... *−6,000,000.*]
[*By transfer* ..... *139,705,000.*]
[*Limitation on direct loans* ..... *554,900,000.*]

CHAPTER XI

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Operating expenses", $4,120,000, to be derived by transfer from "United States Customs Service, Operation and Maintenance, Air Interdiction Program": *Provided,* That this provision shall be effective only upon validation of the transfer by the General Accounting Office. *4,120,000 (by transfer)*

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(TRANSFER OF FUNDS)

For an additional amount for "Operations", $60,000,000, of which $11,619,000 shall be derived by transfer from "Operation and maintenance, Metropolitan Washington airports", and $5,000,000 shall be derived by transfer from "Construction, Metropolitan Washington airports". 43,381,000 *11,619,000 (by transfer)* *5,000,000 (by transfer)*

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for liquidation of obligations incurred for airport planning and development under section 14 of Public Law 91-258, as amended, and under other laws authorizing such obligations, and obligations for noise compatibility planning and programs, $160,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That the first proviso under the heading "Grants-in-Aid for Airports (Liquidation of Contract Authorization) (Airport and Airway Trust Fund)", as contained in the Department of Transportation and Related Agencies Appropriations Act, 1987, 99th Congress, H.R. 5205, to the extent and in the manner provided for in the conference *160,000,000 (liquidation of contract authority)*

report and joint explanatory statement of the committee of conference thereon, 99th Congress, House Report 99-976, as filed in the House of Representatives on October 7, 1986, as if enacted into law, pursuant to section 101(l) of Public Law 99-500 and Public Law 99-591, approved October 30, 1986, is amended as follows:

"Provided, That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of $1,000,000,000 in fiscal year 1987 for grants-in-aid for airport planning and development and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982, as amended: *Provided further,* That an additional $25,000,000 of such commitments may be made in fiscal year 1987 using unobligated amounts in the supplementary discretionary fund provided by sections 505(a) and 507(a)(3)(B) of such Act, without affecting the amount authorized to be appropriated from the Airport and Airway Trust Fund under section 506(c), the amount of apportionments required to be made under section 507, or the satisfaction of general limitations under section 508(d) of such Act.". *$25,000,000 (limitation on contract authority)*

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

For the settlement of promissory notes issued to the Secretary of the Treasury, $2,602,000, to remain available until expended, together with such sums as may be necessary for the payment of interest due under the terms and conditions of such notes. 2,602,000 −2,175,000 *(debt reduction)*

[*Total, Aircraft Purchase Loan Guarantee Program (net), $427,000.*]

[*Total, Federal Aviation Administration (net), $43,808,000.*]

FEDERAL HIGHWAY ADMINISTRATION

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of section 402 of Public Law 97-424, $35,000,000, to be derived from the Highway Trust Fund and to remain available until expended. *35,000,000 (liquidation of contract authority)*

BALTIMORE-WASHINGTON PARKWAY

(HIGHWAY TRUST FUND)

(TRANSFER OF FUNDS)

For an additional amount for "Baltimore-Washington Parkway", $2,000,000, to be derived by transfer from "Motor Carrier Safety Grants" and to remain available until expended. *2,000,000 (by transfer)*

HIGHWAY SAFETY AND ECONOMIC DEVELOPMENT DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

(TRANSFER OF FUNDS)

For an additional amount for "Highway Safety and Economic Development Demonstration Projects", $5,000,000, to be derived by transfer from "Motor Carrier Safety Grants" and to remain available until expended. *5,000,000 (by transfer)*

HIGHWAY SAFETY IMPROVEMENT DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

(TRANSFER OF FUNDS)

For an additional amount for "Highway Safety Improvement Demonstration Project", $2,000,000, to be derived by transfer from "Motor Carrier Safety Grants" and to remain available until expended. *$2,000,000 (by transfer)*

HIGHWAY-RAILROAD GRADE CROSSING SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

(TRANSFER OF FUNDS)

For an additional amount for "Highway-Railroad Grade Crossing Safety Demonstration Project", $2,000,000, to be derived by transfer from "Motor Carrier Safety Grants" and to remain available until expended. *2,000,000 (by transfer)*

VEHICULAR AND PEDESTRIAN SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

(TRANSFER OF FUNDS)

For the purpose of carrying out a demonstration of methods of improving vehicular and pedestrian safety on roads on the Federal-aid urban and Federal-aid secondary systems, involving Route 66 in Northampton and Huntington, Massachusetts, there is hereby authorized to be appropriated $12,000,000, to be derived from the Highway Trust Fund and to remain available until expended, of which $5,000,000 is hereby appropriated to be derived by transfer from "Motor Carrier Safety Grants" and to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs. *5,000,000 (by transfer)*

[*Total, Federal Highway Administration (by transfer), $16,000,000.*]

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

(TRANSFER OF FUNDS)

For an additional amount for "Operations and Research", $1,000,000, to be derived from unobligated balances of funds made available by section 311 of Public Law 96-131 for replacement of facilities associated with Interstate Route 170 and to be merged with this account, notwithstanding any limitation on obligations on Federal-aid highways, and to remain available until expended. *1,000,000 (by transfer)*

FEDERAL RAILROAD ADMINISTRATION

RAIL SERVICE ASSISTANCE

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves deferral D87-42 relating to the Federal Railroad Administration, "Rail Service Assistance", as set forth in the message of January 28, 1987, which was transmitted to the *462,000 (deferral disapproval)*

Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves deferral D87-45 relating to the Federal Railroad Administration, "Northeast Corridor Improvement Program", as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation. *$16,962,000 (deferral disapproval)*

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

For payment to the Secretary of the Treasury for debt reduction, $12,500,000, to remain available until expended, together with such sums as may be necessary for the payment of interest due to the Secretary of the Treasury under the terms and conditions of such debt. −12,500,000 *(debt reduction)* 13,290,000

[*Total, Railroad Rehabilitation and Improvement Program (net), $790,000.*]

SETTLEMENTS OF RAILROAD LITIGATION

For the settlement of promissory notes pursuant to section 210(f) of the Regional Rail Reorganization Act of 1973 (Public Law 93-236), as amended, $56,928,495, to remain available until expended, together with such sums as may be necessary for the payment of interest due to the Secretary of the Treasury under the terms and conditions of such notes. −56,928,495 *(debt reduction)* 62,142,278

[*Total, Settlements of Railroad Litigation (net), $5,213,783.*]

CONRAIL COMMUTER TRANSITION ASSISTANCE

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves deferral D87-46 relating to the Federal Railroad Administration, "Conrail Commuter Transition Assistance", as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation. *10,000,000 (deferral disapproval)*

[*Total, Federal Railroad Administration (net), $6,003,783.*]

URBAN MASS TRANSPORTATION ADMINISTRATION

RESEARCH, TRAINING, AND HUMAN RESOURCES

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves $4,336,000 of the proposed deferral D87-47 relating to the Urban Mass Transportation Administration, "Research, Training, and Human Resources", as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the deferral disapproved herein shall be made available for obligation. *4,336,000 (deferral disapproval)*

INTERSTATE TRANSFER GRANTS—TRANSIT

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves deferral D87-48 relating to the Urban Mass Transportation Administration, "Interstate Transfer Grants—Transit", as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation. *$51,800,000 (deferral disapproval)*

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operation and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $4,000,000, or so much thereof as may be available in and derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662. 4,000,000

[*Total, Department of Transportation (net), $53,811,783.*]

RELATED AGENCIES

DEPARTMENT OF THE TREASURY

REBATE OF SAINT LAWRENCE SEAWAY TOLLS

(HARBOR MAINTENANCE TRUST FUND)

For rebate of the United States portion of tolls paid for use of the Saint Lawrence Seaway, pursuant to Public Law 99-662, $6,250,000, or so much thereof as may be available in and derived from the Harbor Maintenance Trust Fund, to remain available until expended, of which not to exceed $250,000 shall be available for expenses of administering the rebates. 6,250,000

PANAMA CANAL COMMISSION

OPERATING EXPENSES

For an additional amount for "Operating Expenses", $5,013,000, to be derived from the Panama Canal Commission Fund, of which $3,000,000 shall be available to cover the cost of removing a landslide at the Panama Canal, and $2,013,000 shall be available for payment to the Republic of Panama, pursuant to article XIII, paragraph 4(c) of the Panama Canal Treaty of 1977. 5,013,000

GENERAL PROVISIONS

AMTRAK ADVISORY COMMISSION

None of the funds provided for the Department of Transportation in this or any other Act shall be used to implement any charter establishing an advisory commission on the privatization of Amtrak.

DISCRETIONARY BRIDGE PROGRAM

Notwithstanding any other provision of law, the Secretary of Transportation is directed to consider phase 1 and phase 2 of the

construction of a bridge across the Mississippi River at Dubuque, Iowa, known as the Dubuque City Island Bridge, as one project, and for the purpose of determining which projects to fund under the discretionary bridge program, assign to phase 2 of such construction the same priority that was given to phase 1 of such construction.

POMPANO BEACH AIR PARK

None of the funds appropriated for the Federal Aviation Administration under this or any prior Act shall be used (1) to compel the city of Pompano Beach, Florida, to redesignate any land designated as nonaviation use land at the Pompano Beach Air Park as of November 1, 1966, or (2) to take any action to revert the Pompano Beach Air Park.

[*Total, Chapter XI:*

[*New budget (obligational) authority (net)*	*$65,074,783.*]
[*Appropriations*	*136,678,278.*]
[*Appropriations for debt reduction*	*−71,603,495.*]
[*By transfer*	*37,739,000.*]
[*Disapproval of deferrals*	*83,560,000.*]
[*Liquidation of contract authority*	*195,000,000.*]
[*Limitation on contract authority*	*25,000,000.*]

CHAPTER XII

DEPARTMENT OF THE TREASURY

Office of the Secretary

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $5,000,000, to remain available until expended for repairs and improvements to the Treasury Annex. $5,000,000

Federal Law Enforcement Training Center

SALARIES AND EXPENSES

Of the funds appropriated under this heading by the Treasury, Postal Service, and General Government Appropriations Act, fiscal year 1987, Public Law 99-500 and Public Law 99-591, $2,500,000 shall remain available until September 30, 1988: *Provided,* That funds made available under this heading by the Treasury, Postal Service, and General Government Appropriations Act, fiscal year 1987, Public Law 99-500 and Public Law 99-591 shall be used in part to raise the base level of employment at the Federal Law Enforcement Training Center to 325 full-time equivalent positions in the fiscal year ending September 30, 1987.

Financial Management Service

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,900,000, which shall remain available through September 30, 1988, for headquarters relocation. 1,900,000

Bureau of Alcohol, Tobacco, and Firearms

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $5,000,000: *Provided,* That the additional funds made available by this Act shall be used in part to raise the base level of employment for the Bureau 5,000,000

of Alcohol, Tobacco, and Firearms to 3,251 full-time equivalent positions for the fiscal year ending September 30, 1987: *Provided further,* That funds made available by this Act may be used to purchase two additional special explosives investigative vehicles and associated investigative equipment.

UNITED STATES CUSTOMS SERVICE

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

Of the funds appropriated under this heading in Public Law 99-500 and Public Law 99-591, $2,500,000 shall remain available until September 30, 1988, for the purpose stated in the conference report to accompany H.J. Res. 738 (House Report 99-1005).

(DISAPPROVAL OF DELAY IN AVAILABILITY)

The Congress disapproves the proposal to delay availability of obligation of $32,099,000 for Operation and Maintenance, Air Interdiction Program, until after October 1, 1987, contained in House Document 100-31, of February 9, 1987. This disapproval shall be effective upon enactment into law of this Act and the funds shall be made available for obligation.

INTERNAL REVENUE SERVICE

PROCESSING TAX RETURNS

For an additional amount for "Processing tax returns", $55,200,000. $55,200,000

EXAMINATION AND APPEALS

For an additional amount for "Examination and appeals", $8,110,000. 8,110,000

INVESTIGATION, COLLECTION AND TAXPAYER SERVICE

For an additional amount for "Investigation, collection, and taxpayer service", $16,690,000. 16,690,000

[*Total, Internal Revenue Service, $80,000,000.*]

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $5,722,000: *Provided,* That of the funds appropriated under this heading in the Treasury, Postal Service, and General Government Appropriations Act, fiscal year 1987, Public Law 99-500 and Public Law 99-591, $6,000,000 appropriated for continued construction at the James J. Rowley Secret Service Training Center shall remain available until expended. 5,722,000

[*Total, Department of the Treasury, $97,622,000.*]

INDEPENDENT AGENCIES

General Services Administration

Federal Buildings Fund

LIMITATIONS ON AVAILABILITY OF REVENUE

In addition to the aggregate amount heretofore made available for real property management and related activities in fiscal year 1987, $61,900,000 shall be made available for rental of space: *Provided,* That any revenues, collections and any other sums accruing to this fund during fiscal year 1987 in excess of $2,447,756,000, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)), shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts. *$61,900,000 (limitation on availability of revenue)*

National Archives and Records Administration

OPERATING EXPENSES

For an additional amount for "Operating expenses", $475,000. 475,000

Customs Forfeiture Fund

TECHNICAL CORRECTION TO PUBLIC LAW 99-570

Section 1152(b) of Public Law 99-570 is repealed, and shall be treated as though it had never been enacted.

ALLOWANCES FOR CERTAIN GSA PERSONNEL

Notwithstanding sections 5923 and 5924, title 5, United States Code, and any applicable regulations, the General Services Administration shall honor allowances initially authorized, resulting in an aggregate amount of $27,000 payable to twenty-one General Services Administration employees for certain cost of living and related expenses during official foreign duty from November 1984 through September 1985.

[*Total, Chapter XII:*	
[*New budget (obligational) authority*	*$98,097,000.*]
[*Limitation on availability of revenue*	*61,900,000.*]
[*Total, title I, Program Supplementals:*	
[*New budget (obligational) authority (net)*	*$7,422,575,976.*]
[*Appropriations*	*9,462,392,471.*]
[*Appropriations for debt reduction*	*−1,446,603,495.*]
[*Rescissions*	*−563,213,000.*]
[*Rescission of contract authority*	*−30,000,000.*]
[*By transfer*	*879,572,000.*]
[*Limitation on trust fund transfer*	*65,000,000.*]
[*Limitation on availability of revenue*	*61,900,000.*]
[*Limitation on direct loans*	*554,900,000.*]
[*Limitation on annual contract authority, indefinite*	*−17,119,000.*]
[*Limitation on callable capital*	*17,375,058.*]
[*Limitation on contract authority*	*25,000,000.*]
[*Liquidation of contract authority*	*204,915,000.*]
[*Limitation on program activity*	*−220,000,000.*]
[*Disapproval of deferrals*	*145,727,000.*]

TITLE II—INCREASED PAY COSTS FOR THE FISCAL YEAR 1987

For additional amounts for appropriations for the fiscal year 1987, for increased pay costs authorized by or pursuant to law as follows:

LEGISLATIVE BRANCH

SENATE

"Salaries, officers and employees", $5,715,000;	$5,715,000
"Office of the Legislative Counsel of the Senate", $47,000;	47,000
"Inquiries and investigations", $1,116,000;	1,116,000
[*Total, Senate, $6,878,000.*]	

HOUSE OF REPRESENTATIVES

"House leadership offices", $39,000;	39,000
"Members' clerk hire", $2,584,000;	2,584,000
"Committee employees", $720,000;	720,000
"Special and select committees", $446,000;	446,000
"Allowances and expenses", $408,000;	408,000
"Salaries, officers and employees", $618,000;	618,000
[*Total, House of Representatives, $4,815,000.*]	

JOINT ITEMS

"Joint Economic Committee", $75,000;	75,000
"Joint Committee on Printing", $10,000;	10,000
[*Total, Joint Items, $85,000.*]	

OFFICE OF TECHNOLOGY ASSESSMENT

"Salaries and expenses", $209,000;	209,000

CONGRESSIONAL BUDGET OFFICE

"Salaries and expenses", $80,000;	80,000

ARCHITECT OF THE CAPITOL

Office of the Architect of the Capitol: "Salaries", $50,000;	50,000
"Capitol buildings", $70,000;	70,000
"Capitol grounds", $40,000;	40,000
"Senate office buildings", $250,000;	250,000
"House office buildings", $300,000;	300,000
"Capitol power plant", $40,000;	40,000
Library buildings and grounds: "Structural and mechanical care", $50,000;	50,000
[*Total, Architect of the Capitol, $800,000.*]	

BOTANIC GARDEN

"Salaries and expenses", $25,000;	25,000

LIBRARY OF CONGRESS

"Salaries and expenses", $605,000;	605,000
Copyright Office: "Salaries and expenses", $173,000, of which not more than $17,000 shall be derived from collections during fiscal year 1987 under 17 U.S.C. 111(d)(3) and 116(c)(1);	173,000 −17,000 *(receipts)*
Congressional Research Service: "Salaries and expenses", $215,000;	215,000
[*Total, Library of Congress, $976,000.*]	

COPYRIGHT ROYALTY TRIBUNAL

"Salaries and expenses", $5,000, of which $4,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807;	$5,000 −4,000 *(receipts)*
[*Total, Copyright Royalty Tribunal, $1,000.*]	

GOVERNMENT PRINTING OFFICE

Office of Superintendent of Documents: "Salaries and expenses", $46,000;	46,000

GENERAL ACCOUNTING OFFICE

"Salaries and expenses", $2,500,000;	2,500,000
[*Total, Legislative Branch, $16,415,000.*]	

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

"Salaries and expenses", $504,000;	504,000
"Care of the building and grounds", $24,000;	24,000
[*Total, Supreme Court of the United States, $528,000.*]	

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

"Salaries and expenses", $97,000;	97,000

UNITED STATES COURT OF INTERNATIONAL TRADE

"Salaries and expenses", $69,000;	69,000

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

"Salaries and expenses", $15,032,000;	15,032,000
"Defender services", $593,000;	593,000
[*Total, Courts of Appeals, District Courts, and other Judicial Services, $15,625,000.*]	

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

"Salaries and expenses", $504,000;	504,000

FEDERAL JUDICIAL CENTER

"Salaries and expenses", $116,000;	116,000
[*Total, the Judiciary, $16,939,000.*]	

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY

"Council on Environmental Quality and Office of Environmental Quality", $3,000;	3,000

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

"Office of Science and Technology Policy", $3,000;	3,000

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

"Salaries and expenses", $77,000; $77,000
[*Total, Executive Office of the President, $83,000.*]

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

"Operating expenses, Agency for International Development", $2,175,000; 2,175,000

"Operating expenses of the Agency for International Development, Office of the Inspector General", $103,000; 103,000
[*Total, Agency for International Development, $2,278,000.*]

PEACE CORPS

"Peace Corps, operating expenses", $324,000; 324,000

AFRICAN DEVELOPMENT FOUNDATION

"African Development Foundation", $15,000; 15,000
[*Total, Funds Appropriated to the President, $2,617,000.*]

DEPARTMENT OF AGRICULTURE

(INCLUDING TRANSFER OF FUNDS)

"Office of the Secretary", $31,000; 31,000
"Office of the Assistant Secretary for Administration", $7,000; 7,000
"Office of the Assistant Secretary for Governmental and Public Affairs", $7,000; 7,000
"Office of the Assistant Secretary for Economics", $7,000; 7,000
"Office of the Assistant Secretary for Science and Education", $7,000; 7,000
"Office of the Assistant Secretary for Marketing and Inspection Service", $7,000; 7,000
"Office of the Under Secretary for International Affairs and Commodity Programs", $8,000; 8,000
"Office of the Under Secretary for Small Community and Rural Development", $8,000; 8,000
"Office of the Assistant Secretary for Natural Resources and Environment", $7,000; 7,000
"Office of the Assistant Secretary for Food and Consumer Services", $7,000; 7,000
"Departmental Administration", for budget and program analysis, $79,000; for personnel, finance and management, operations, information resources management, equal opportunity, small and disadvantaged business utilization, and administrative law judges and judicial officers, $232,000; making a total of $311,000; 311,000
"Building operations and maintenance", $35,000; 35,000
"Office of Governmental and Public Affairs", for public affairs, $53,000; for congressional relations, $5,000; and for intergovernmental affairs, $4,000; 62,000
"Office of the Inspector General", $400,000; 400,000
"Office of the General Counsel", $300,000; 300,000
"Agricultural Research Service", $3,935,000; 3,935,000
"National Agricultural Library", $65,000; 65,000
"Economic Research Service", $415,000; 415,000
"National Agricultural Statistics Service", $490,000; 490,000
"World Agricultural Outlook Board", $15,000; 15,000
"Foreign Agricultural Service", $567,000; 567,000

"General Sales Manager", an additional $114,000, to be derived by transfer from the Commodity Credit Corporation fund;	*$114,000 (by transfer)*
[*Subtotal, Department of Agriculture, $6,691,000.*]	
AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE	
"Salaries and expenses", an additional $8,967,000, to be derived by transfer from the Commodity Credit Corporation funds;	*8,967,000 (by transfer)*
FARMERS HOME ADMINISTRATION	
"Salaries and expenses", $3,000,000;	3,000,000
SOIL CONSERVATION SERVICE	
"Conservation operations", $7,297,000;	7,297,000
"River basin surveys and investigations", $102,000;	102,000
"Watershed planning", $74,000;	74,000
"Watershed and flood prevention operations", $943,000;	943,000
[*Total, Soil Conservation Service, $8,416,000.*]	
ANIMAL AND PLANT HEALTH INSPECTION SERVICE	
"Salaries and expenses", $2,000,000;	2,000,000
FEDERAL GRAIN INSPECTION SERVICE	
"Salaries and expenses", $53,000;	53,000
AGRICULTURAL MARKETING SERVICE	
"Limitation on administrative expenses", (increase of $501,000 in limitation);	*501,000 (increase in limitation)*
"Funds for strengthening markets, income and supply (section 32)", (increase of $112,000 in the limitation, "marketing agreements and orders");	*112,000 (increase in limitation)*
"Packers and Stockyards Administration", $78,000;	78,000
"Agricultural Cooperative Service", $32,000;	32,000
"Office of Transportation", $23,000;	23,000
"Food Safety Inspection Service", $7,000,000;	7,000,000
FOOD AND NUTRITION SERVICE	
"Food program administration", $713,000;	713,000
HUMAN NUTRITION INFORMATION SERVICE	
"Salaries and expenses", $34,000;	34,000
FOREST SERVICE	
"Forest research", $1,844,000;	1,844,000
"State and private forestry", $413,000;	413,000
"National forest system", $17,574,000;	17,574,000
"Construction", $2,859,000;	2,859,000
[*Total, Forest Service, $22,690,000.*]	
[*Total, Department of Agriculture, $50,730,000.*]	
DEPARTMENT OF COMMERCE	
(TRANSFERS OF FUNDS)	
GENERAL ADMINISTRATION	
"Salaries and expenses", $450,000, to be derived by transfer of unobligated balances from "Regional development programs";	*450,000 (by transfer)*

ECONOMIC DEVELOPMENT ADMINISTRATION

"Salaries and expenses", $397,000, to be derived by transfer from "Economic Development Revolving Fund"; *$397,000 (by transfer)*

ECONOMIC AND STATISTICAL ANALYSIS

"Salaries and expenses", $332,000, to be derived by transfer of unobligated balances from "Regional development programs"; *332,000 (by transfer)*

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

"Operations, Research, and Facilities", $7,505,000, to be derived by transfer from "Coastal Energy Impact Fund"; *7,505,000 (by transfer)*

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

"Salaries and expenses", $243,000, to be derived by transfer from National Telecommunications and Information Administration, "Public telecommunications facilities, planning and construction"; *243,000 (by transfer)*
[*Department of Commerce (by transfer), $8,927,000.*]

DEPARTMENT OF DEFENSE—MILITARY

OPERATION AND MAINTENANCE

"Operation and Maintenance, Army", $2,679,000; 2,679,000
"Operation and Maintenance, Navy", $3,350,000; 3,350,000
"Operation and Maintenance, Marine Corps", $183,000; 183,000
"Operation and Maintenance, Air Force", $1,925,000; 1,925,000
"Operation and Maintenance, Defense Agencies", $2,307,000; 2,307,000
"Operation and Maintenance, Army Reserve", $109,000; 109,000
"Operation and Maintenance, Navy Reserve", $29,000; 29,000
"Operation and Maintenance, Marine Corps Reserve", $3,000; 3,000
"Operation and Maintenance, Air Force Reserve", $281,000; 281,000
"Operation and Maintenance, Army National Guard", $285,000; 285,000
"Operation and Maintenance, Air National Guard", $618,000; 618,000
"Court of Military Appeals, Defense", $1,000; 1,000
[*Total, Operation and Maintenance, $11,770,000.*]

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

"Research, Development, Test, and Evaluation, Army", $336,000; 336,000
"Research, Development, Test, and Evaluation, Navy", $33,000; 33,000
"Research, Development, Test, and Evaluation, Air Force", $306,000; 306,000
"Research, Development, Test, and Evaluation, Defense Agencies", $115,000; 115,000
[*Total, Research, Development, Test, and Evaluation, $790,000.*]
[*Total, Department of Defense—Military, $12,560,000.*]

DEPARTMENT OF DEFENSE—CIVIL

(INCLUDING TRANSFER OF FUNDS)

CORPS OF ENGINEERS—CIVIL

"General expenses", $1,832,000, to be derived by transfer from "Construction, General"; *1,832,000 (by transfer)*

SOLDIERS' AND AIRMEN'S HOME

"Operation and maintenance", $554,000, to be derived by transfer from "Capital outlay";	*$554,000 (by transfer)*
[*Department of Defense—Civil (by transfer), $2,386,000.*]	

DEPARTMENT OF ENERGY

(INCLUDING TRANSFER OF FUNDS)

"Energy Information Administration", $469,000, to be derived by transfer of unobligated balances in "Energy Information Administration";	*469,000 (by transfer)*
"Emergency preparedness", $89,000, to be derived by transfer of unobligated balances in "Emergency preparedness";	*89,000 (by transfer)*
[*Total, Department of Energy (by transfer), $558,000.*]	

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

"Salaries and expenses", $5,892,000;	5,892,000

HEALTH RESOURCES AND SERVICES ADMINISTRATION

"Indian health services", $7,686,000;	7,686,000

NATIONAL INSTITUTES OF HEALTH

"Office of the Director", $150,000;	150,000

SAINT ELIZABETHS HOSPITAL

"Federal Subsidy for Saint Elizabeths Hospital", $2,487,000;	2,487,000

SOCIAL SECURITY ADMINISTRATION

"Limitation on administrative expenses", $18,000,000, to be derived from amounts available in this account for automatic data processing and telecommunications activities;	*18,000,000 (limitation on administrative expenses)*

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT

"Human Development Services", $1,300,000;	1,300,000

DEPARTMENTAL MANAGEMENT

"General departmental management", $2,200,000;	2,200,000
"Office of Consumer Affairs", $10,000;	10,000
[*Total, Departmental Management, $2,210,000.*]	
[*Total, Department of Health and Human Services, $19,725,000.*]	

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

"Management of lands and resources", $5,622,000;	5,622,000
"Oregon and California grant lands", $815,000;	815,000
[*Total, Bureau of Land Management, $6,437,000.*]	

UNITED STATES FISH AND WILDLIFE SERVICE

"Resource management", $3,046,000; $3,046,000

NATIONAL PARK SERVICE

"Operation of the national park system", $9,960,000; 9,960,000
"National recreation and preservation", $200,000; 200,000
[*Total, National Park Service, $10,160,000.*]

GEOLOGICAL SURVEY

"Surveys, investigations, and research", $6,072,000; 6,072,000

BUREAU OF MINES

"Mines and minerals", $900,000; 900,000

BUREAU OF RECLAMATION

"Construction Program", $3,034,000; 3,034,000
"Operation and Maintenance", $1,808,000; 1,808,000
[*Total, Bureau of Reclamation, $4,842,000.*]

BUREAU OF INDIAN AFFAIRS

"Operation of Indian programs", $9,765,000; 9,765,000

DEPARTMENTAL OFFICES

"Office of the Secretary", $175,000: *Provided,* That the limitation on expenses for the immediate Office of the Secretary in fiscal year 1987 under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Law 99-500 and Public Law 99-591, shall be increased only to the extent necessary for pay adjustments pursuant to Executive Order 12578 of December 31, 1986; 175,000
"Office of the Solicitor", $200,000; 200,000
"Office of the Inspector General", $245,000; 245,000
[*Total, Departmental Offices, $620,000.*]
[*Total, Department of the Interior, $41,842,000.*]

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

"Salaries and expenses", $575,000; 575,000

UNITED STATES PAROLE COMMISSION

"Salaries and expenses", $84,000; 84,000

LEGAL ACTIVITIES

"Salaries and expenses, general legal activities", $1,646,000; 1,646,000
"Salaries and expenses, Antitrust Division", $315,000, to remain available until September 30, 1988; 315,000
"Salaries and expenses, United States Attorneys", $2,818,000; 2,818,000
"Salaries and expenses, Oversight of Bankruptcy Cases", $93,000; 93,000
"Salaries and expenses, United States Marshals Service", $2,234,000; 2,234,000
"Salaries and expenses, Community Relations Service", $64,000 of which $16,000 shall remain available until expended; 64,000
[*Total, Legal Activities, $7,170,000.*]

FEDERAL BUREAU OF INVESTIGATION

"Salaries and expenses", $9,309,000 of which $5,686,000 shall remain available until September 30, 1988;	$9,309,000

DRUG ENFORCEMENT ADMINISTRATION

"Salaries and expenses", $2,593,000;	2,593,000

IMMIGRATION AND NATURALIZATION SERVICE

"Salaries and expenses", $5,588,000;	5,588,000

FEDERAL PRISON SYSTEM

"Salaries and expenses", $3,932,000;	3,932,000
"National Institute of Corrections", $20,000;	20,000
"Buildings and facilities", $30,000;	30,000
"Limitation on administrative and vocational training expenses, Federal Prison Industries, Incorporated" (increase of $27,000 in the limitation on Administrative expenses, and $106,000 on Vocational Training expenses);	*133,000 (increase in limitation)*
[*Total, Federal Prison System, $3,982,000.*]	

OFFICE OF JUSTICE PROGRAMS

"Salaries and expenses", $172,000;	172,000
[*Total, Department of Justice, $29,473,000.*]	

DEPARTMENT OF LABOR

(INCLUDING TRANSFER OF FUNDS)

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

"Salaries and expenses", $1,583,000, to be derived from the unobligated balances of Employment Standards Administration, "Salaries and expenses";	*1,583,000 (by transfer)*

EMPLOYMENT STANDARDS ADMINISTRATION

"Black Lung Disability Trust Fund", $708,000, of which $296,000 shall be available for transfer to Employment Standards Administration, "Salaries and expenses" and of which $412,000 shall be available for transfer to Departmental Management, "Salaries and expenses";	708,000

DEPARTMENTAL MANAGEMENT

"Salaries and expenses", $1,476,000, to be derived from the unobligated balances of Employment Standards Administration, "Salaries and expenses";	*1,476,000 (by transfer)*
"Office of the Inspector General", $460,000, to be derived from the unobligated balances of Employment Standards Administration, "Salaries and expenses";	*460,000 (by transfer)*
[*Total, Department of Labor, $708,000.*]	

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

"Salaries and expenses", $6,900,000;	6,900,000

DEPARTMENT OF TRANSPORTATION

(INCLUDING TRANSFERS OF FUNDS)

OFFICE OF THE SECRETARY

"Salaries and expenses", $563,000, to be derived by transfer from the unobligated balances of "Payments to air carriers"; *$563,000 (by transfer)*

COAST GUARD

"Operating expenses", $16,100,000, of which $3,000,000 shall be expended from the Boat Safety Account, $3,000,000 shall be derived from "Retired pay", $3,945,000 shall be derived from the unobligated balances of "Deepwater Port Liability Fund", $5,000,000 from the unobligated balances of "Research, development, test, and evaluation", and $1,155,000, to be derived by transfer from "United States Railway Association, Administrative expenses"; 3,000,000 *13,100,000 (by transfer)*

"Reserve training", $1,200,000 to be derived by transfer from the unobligated balances of the "Deepwater Port Liability Fund"; *1,200,000 (by transfer)*

FEDERAL AVIATION ADMINISTRATION

"Headquarters administration", $271,000, to be derived by transfer from "Operation and maintenance, Metropolitan Washington airports"; *271,000 (by transfer)*

"Operations", $33,000,000; 33,000,000

FEDERAL HIGHWAY ADMINISTRATION

"Limitation on general operating expenses" (increase of $1,200,000 in the limitation on general operating expenses); *1,200,000 (increase in limitation)*

"Motor carrier safety", $140,000, to be derived from unobligated balances of funds made available by section 311 of Public Law 96-131 for replacement of facilities associated with Interstate Route 170 and to be merged with this account, notwithstanding any limitation on obligations on Federal-aid highways; *140,000 (by transfer)*

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

"Operations and research", $317,000; 317,000

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for "Grants to the National Railroad Passenger Corporation", $5,000,000, to be derived from unobligated balances of "Redeemable preference shares" acquired by the Secretary of Transportation under the Railroad Revitalization and Regulatory Reform Act of 1976, to be available only for construction, rehabilitation, renewal, replacement, or other improvements deemed by the National Railroad Passenger Corporation to be needed to enable it to restore railroad passenger service between Springfield, Massachusetts and Montreal, Canada through Vermont: *Provided,* That any agreements entered into by the National Railroad Passenger Corporation for the performance of such improvements shall provide that the owners of any railroad lines so improved not construe the terms of any existing trackage rights agreement or any existing or future operating agreement between the National Railroad Passenger Corporation and the owners of any such railroad lines in a manner that would result in an increase in the rental or other payments made thereunder because of the expenditures made under this appropriation: *Provided further,* That any agreements entered into by the National Railroad Passenger *5,000,000 (by transfer)*

Corporation for the performance of such improvements shall provide that the owners of any railroad lines so improved not seek to include the value of any expenditures made under this appropriation in the transfer price of any of the lines so improved: *Provided further,* That, notwithstanding any other provision of law, the National Railroad Passenger Corporation shall hereafter seek immediate and appropriate legal remedies to enforce its contractual rights whenever track maintenance on any route over which the National Railroad Passenger Corporation operates becomes inadequate or otherwise falls below the contractual standard;

FEDERAL RAILROAD ADMINISTRATION

"Office of the administrator", $100,000, to be derived from the unobligated balances of "Conrail labor protection"; *$100,000 (by transfer)*

"Railroad safety", $400,000, to be derived from the unobligated balances of "Conrail labor protection"; *400,000 (by transfer)*

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

"Limitation on administrative expenses, Saint Lawrence Seaway Development Corporation" (increase of $30,000 in the limitation on administrative expenses); *30,000 (increase in limitation)*

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

"Research and special programs", $150,000, to be derived from the unobligated balances of "Payments to air carriers"; *150,000 (by transfer)*

OFFICE OF THE INSPECTOR GENERAL

"Salaries and expenses", $400,000, to be derived from the unobligated balances of "Payments to air carriers"; *400,000 (by transfer)*

[*Total, Department of Transportation, $36,317,000.*]

RELATED AGENCIES

NATIONAL TRANSPORTATION SAFETY BOARD

(TRANSFER OF FUNDS)

"Salaries and expenses", $165,000, to be derived by transfer from the unobligated balances of "Payments to air carriers"; *165,000 (by transfer)*

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

"Salaries and expenses", $9,000,000, of which $5,000,000 shall be derived by transfer from "Research and development"; 4,000,000 *5,000,000 (by transfer)*

CONSUMER INFORMATION CENTER [1]

"Consumer Information Center", $8,000 (and an increase of $8,000 in the limitation on administrative expenses); 8,000 *8,000 (increase in limitation)*

[1] A center heading above this line should have read "GENERAL SERVICES ADMINISTRATION".

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

"Research and program management", $25,000,000, to be derived by transfer from "Research and development", and "Space flight, control and data communications";	*$25,000,000 (by transfer)*

SMALL BUSINESS ADMINISTRATION

Small Business Administration

(TRANSFER OF FUNDS)

"Salaries and expenses", $2,400,000, to be derived by transfer from the "Business Loan and Investment Fund", to remain available until September 30, 1988;	*2,400,000 (by transfer)*

VETERANS ADMINISTRATION

"Medical care", $149,391,000;	149,391,000
"Medical and prosthetic research", $1,859,000;	1,859,000
"Medical administration and miscellaneous operating expenses", $400,000;	400,000
"General operating expenses", $5,500,000;	5,500,000
"Construction, minor projects" (increase of $350,000 in the limitation on the expenses of the Office of Facilities);	*350,000 (increase in limitation)*
[*Total, Veterans Administration, $157,150,000.*]	

OTHER INDEPENDENT AGENCIES

American Battle Monuments Commission

"Salaries and expenses", $140,000;	140,000

Arms Control and Disarmament Agency

"Arms control and disarmament activities", $124,000;	124,000

Consumer Product Safety Commission

"Salaries and expenses", $250,000;	250,000

Equal Employment Opportunity Commission

"Salaries and expenses", $2,640,000;	2,640,000

Export-Import Bank

"Limitation on administrative expenses" (increase of $157,000 in the limitation on administrative expenses);	*157,000 (increase in limitation)*

Federal Communications Commission

"Salaries and expenses", $755,000;	755,000

Federal Home Loan Bank Board

"Limitation on administrative expenses, Federal Home Loan Bank Board" (increase of $200,000);	*200,000 (increase in limitation)*

Federal Maritime Commission

"Salaries and expenses", $200,000;	200,000

FEDERAL MEDIATION AND CONCILIATION SERVICE	
"Salaries and expenses", $181,000;	$181,000
NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE	
"Salaries and expenses", $6,000;	6,000
NATIONAL ENDOWMENT FOR THE ARTS	
"Grants and administration", $200,000;	200,000
NATIONAL ENDOWMENT FOR THE HUMANITIES	
"Grants and administration", $200,000;	200,000
NATIONAL LABOR RELATIONS BOARD	
"Salaries and expenses", $628,000;	628,000
NATIONAL MEDIATION BOARD	
"Salaries and expenses", $60,000;	60,000
NATIONAL SCIENCE FOUNDATION	
"Research and related activities" (increase of $1,300,000 in the limitation on program development and management);	*1,300,000 (increase in limitation)*
SECURITIES AND EXCHANGE COMMISSION	
"Salaries and expenses", $1,837,000;	1,837,000
SMITHSONIAN INSTITUTION	
"Salaries and expenses", $2,654,000;	2,654,000
NATIONAL GALLERY OF ART	
"Salaries and expenses", $490,000;	490,000
WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS	
"Salaries and expenses", $21,000;	21,000
UNITED STATES HOLOCAUST MEMORIAL COUNCIL	
"Holocaust memorial council", $19,000;	19,000
UNITED STATES INFORMATION AGENCY	
"Salaries and expenses", $2,691,000.	2,691,000
[Total, Other Independent Agencies, $13,096,000.]	
[Total, title II, Increased Pay Costs:	
[New budget (obligational) authority (net)..... $408,563,000.]	
[By transfer..... 78,360,000.]	
[Increase in limitations..... 3,991,000.]	
[Limitation on administration expenses ..... 18,000,000.]	

TITLE III—INCREASED COSTS FOR RETIREMENT CONTRIBUTIONS (PUBLIC LAW 99-335)

For additional amounts for appropriations for the fiscal year 1987, for Federal Employees Retirement System costs authorized by or pursuant to law as follows:

LEGISLATIVE BRANCH

SENATE

"Salaries, officers and employees", $6,986,000;	$6,986,000
"Office of the Legislative Counsel of the Senate", $53,000;	53,000
"Office of the Senate Legal Counsel", $18,000;	18,000
"Senate policy committees", $133,000;	133,000
"Inquiries and investigations", $1,848,000;	1,848,000
[*Total, Senate, $9,038,000.*]	

HOUSE OF REPRESENTATIVES

"Allowances and expenses", $35,880,000;	35,880,000

JOINT ITEMS

"Joint Economic Committee", $155,000;	155,000
"Joint Committee on Printing", $34,000;	34,000
Capitol Guide Service: "Salaries and expenses", $32,000;	32,000
[*Total, Joint Items, $221,000.*]	

OFFICE OF TECHNOLOGY ASSESSMENT

"Salaries and expenses", $545,000;	545,000

CONGRESSIONAL BUDGET OFFICE

"Salaries and expenses", $452,000;	452,000

ARCHITECT OF THE CAPITOL

Office of the Architect of the Capitol: "Salaries", $166,000;	166,000
"Capitol buildings", $187,000;	187,000
"Capitol grounds", $68,000;	68,000
"Senate office buildings", $456,000;	456,000
"House office buildings", $611,000;	611,000
"Capitol power plant", $109,000;	109,000
Library buildings and grounds: "Structural and mechanical care", $130,000;	130,000
[*Total, Architect of the Capitol, $1,727,000.*]	

BOTANIC GARDEN

"Salaries and expenses", $48,000;	48,000

LIBRARY OF CONGRESS

"Salaries and expenses", $1,906,000;	1,906,000
Copyright Office: "Salaries and expenses", $287,000, of which not more than $12,000 shall be derived from collections during fiscal year 1987 under 17 U.S.C. 111(d)(3) and 116(c)(1);	287,000 −12,000 *(receipts)*
Congressional Research Service: "Salaries and expenses", $617,000;	617,000

Books for the blind and physically handicapped: "Salaries and expenses", $103,000; [*Total, Library of Congress, $2,901,000.*]	$103,000
COPYRIGHT ROYALTY TRIBUNAL	
"Salaries and expenses", $7,000, of which $6,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807; [*Total, Copyright Royal Tribunal, $1,000.*]	7,000 −6,000 *(receipts)*
GOVERNMENT PRINTING OFFICE	
Office of the Superintendent of Documents: "Salaries and expenses", $83,000;	83,000
GENERAL ACCOUNTING OFFICE	
"Salaries and expenses", $3,563,000; [*Total, Legislative Branch, $54,459,000.*]	3,563,000
THE JUDICIARY	
SUPREME COURT OF THE UNITED STATES	
"Salaries and expenses", $409,000; "Care of the building and grounds", $33,000; [*Total, Supreme Court of the United States, $442,000.*]	409,000 33,000
UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT	
"Salaries and expenses", $23,000;	23,000
UNITED STATES COURT OF INTERNATIONAL TRADE	
"Salaries and expenses", $49,000;	49,000
COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES	
"Salaries and expenses", $9,688,000; "Defender services", $887,000; [*Total, Courts of Appeals, District Courts, and other Judicial Services, $10,575,000.*]	9,688,000 887,000
ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS	
"Salaries and expenses", $80,000;	80,000
FEDERAL JUDICIAL CENTER	
"Salaries and expenses", $108,000; [*Total, The Judiciary, $11,277,000.*]	108,000
EXECUTIVE OFFICE OF THE PRESIDENT	
WHITE HOUSE OFFICE	
"Salaries and expenses", $374,000;	374,000
EXECUTIVE RESIDENCE AT THE WHITE HOUSE	
"Operating expenses", $53,000;	53,000

SPECIAL ASSISTANCE TO THE PRESIDENT

"Salaries and expenses", $107,000; $107,000

COUNCIL OF ECONOMIC ADVISERS

"Salaries and expenses", $95,000; 95,000

OFFICE OF POLICY DEVELOPMENT

"Salaries and expenses", $89,000; 89,000

NATIONAL SECURITY COUNCIL

"Salaries and expenses", $62,000; 62,000

OFFICE OF ADMINISTRATION

"Salaries and expenses", $214,000; 214,000

OFFICE OF MANAGEMENT AND BUDGET

"Salaries and expenses", $413,000; 413,000

OFFICE OF FEDERAL PROCUREMENT POLICY

"Salaries and expenses", $20,000; 20,000

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

"Office of Science and Technology Policy", $20,000; 20,000

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

"Salaries and expenses", $168,000; 168,000
[*Total, Executive Office of the President, $1,615,000.*]

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

"Operating expenses of the Agency for International Development", $5,488,000; 5,488,000
"Operating expenses of the Agency for International Development, Office of the Inspector General", $218,000; 218,000
[*Total, Agency for International Development, $5,706,000.*]

PEACE CORPS

"Peace Corps, operating expenses", $436,000; 436,000

AFRICAN DEVELOPMENT FOUNDATION

"African Development Foundation", $99,000; 99,000
[*Total, Funds Appropriated to the President, $6,241,000.*]

DEPARTMENT OF AGRICULTURE

(INCLUDING TRANSFER OF FUNDS)

"Office of the Secretary", $29,000; 29,000
"Office of the Assistant Secretary for Administration", $8,000; 8,000

"Office of the Assistant Secretary for Governmental and Public Affairs", $6,000;	$6,000
"Office of the Assistant Secretary for Economics", $6,000;	6,000
"Office of the Assistant Secretary for Science and Education", $6,000;	6,000
"Office of the Assistant Secretary for Marketing and Inspection Service", $6,000;	6,000
"Office of the Under Secretary for International Affairs and Commodity Programs", $8,000;	8,000
"Office of the Under Secretary for Small Community and Rural Development", $8,000;	8,000
"Office of the Assistant Secretary for Natural Resources and Environment", $6,000;	6,000
"Office of the Assistant Secretary for Food and Consumer Services", $6,000;	6,000
"Departmental Administration", for budget and program analysis, $73,000; for personnel, finance and management, operations, information resources management, equal opportunity, small and disadvantaged business utilization, and administrative law judges and judicial officer, $385,000; making a total of $458,000;	458,000
"Building operations and maintenance", $165,000;	165,000
"Office of Governmental and Public Affairs", for public affairs, $111,000; for congressional relations, $6,000; and for intergovernmental affairs, $9,000;	126,000
"Office of the Inspector General", $622,000;	622,000
"Office of the General Counsel", $239,000;	239,000
"Agricultural Research Service", $4,747,000;	4,747,000
"Extension Service", including extension agents, $6,500,000;	6,500,000
"National Agricultural Library", $97,000;	97,000
"Economic Research Service", $580,000;	580,000
"National Agricultural Statistics Service", $612,000;	612,000
"World Agricultural Outlook Board", $21,000;	21,000
"Foreign Agricultural Service", $607,000;	607,000
"General Sales Manager", an additional $107,000 to be derived by transfer from the Commodity Credit Corporation fund;	*107,000* *(by transfer)*
[*Subtotal, Department of Agriculture, $14,863,000.*]	
AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE	
"Salaries and expenses", an additional $9,920,000 to be derived by transfer from the Commodity Credit Corporation fund;	*9,920,000* *(by transfer)*
OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT	
"Salaries and expenses", $114,000;	114,000
SOIL CONSERVATION SERVICE	
"Conservation operations", $5,331,000;	5,331,000
"River basin surveys and investigations", $130,000;	130,000
"Watershed planning", $97,000;	97,000
[*Total, Soil Conservation Service, $5,558,000.*]	
FARMERS HOME ADMINISTRATION	
"Salaries and expenses", $4,678,000;	4,678,000
FEDERAL GRAIN INSPECTION SERVICE	
"Salaries and expenses", $76,000;	76,000

AGRICULTURAL MARKETING SERVICE

"Marketing Services", $490,000;	$490,000
"Limitation on administrative expenses" (increase of $213,000 in limitation);	*213,000 (increase in limitation)*
"Funds for strengthening markets, income and supply" (section 32), (increase of $84,000 in the limitation "marketing agreements and orders");	*84,000 (increase in limitation)*
"Packers and Stockyards Administration", $58,000;	58,000
"Agricultural Cooperative Service", $46,000;	46,000
"Office of Transportation", $34,000;	34,000
"Food Safety Inspection Service", $4,573,000;	4,573,000

FOOD AND NUTRITION SERVICE

"Food program administration", $1,503,000;	1,503,000
"Human Nutrition Information Service", $75,000;	75,000

FOREST SERVICE

"Forest research", $1,000,000;	1,000,000
"State and private forestry", $190,000;	190,000
"National forest system", $9,300,000;	9,300,000
"Construction", $1,600,000;	1,600,000
[*Total, Forest Service, $12,090,000.*]	
[*Total, Department of Agriculture, $44,158,000.*]	

DEPARTMENT OF COMMERCE

(INCLUDING TRANSFER OF FUNDS)

GENERAL ADMINISTRATION

"Salaries and expenses", $464,000;	464,000

BUREAU OF THE CENSUS

"Salaries and expenses", $1,433,000;	1,433,000
"Periodic censuses and programs", $2,806,000, to remain available until expended;	2,806,000
[*Total, Bureau of the Census, $4,239,000.*]	

ECONOMIC AND STATISTICAL ANALYSIS

"Salaries and expenses", $408,000;	408,000

ECONOMIC DEVELOPMENT ADMINISTRATION

"Salaries and expenses", $400,000, to be derived by transfer from "Economic Development Revolving Fund";	*400,000 (by transfer)*

INTERNATIONAL TRADE ADMINISTRATION

"Operations and Administration", $2,237,000, to remain available until expended;	2,237,000

MINORITY BUSINESS DEVELOPMENT AGENCY

"Minority business development", $180,000;	180,000

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

"Salaries and expenses", $49,000; $49,000

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

"Operations, research, and facilities", $5,972,000, to remain available until expended; 5,972,000

NATIONAL BUREAU OF STANDARDS

"Scientific and technical research and services", $1,368,000, to remain available until expended; 1,368,000

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

"Salaries and expenses", $213,000; 213,000
[*Total, Department of Commerce, $15,130,000.*]

DEPARTMENT OF DEFENSE—MILITARY

OPERATION AND MAINTENANCE

"Operation and Maintenance, Army", $119,047,000; 119,047,000
"Operation and Maintenance, Navy", $148,880,000; 148,880,000
"Operation and Maintenance, Marine Corps", $8,117,000; 8,117,000
"Operation and Maintenance, Air Force", $85,564,000; 85,564,000
"Operation and Maintenance, Defense Agencies", $102,453,000; 102,453,000
"Operation and Maintenance, Army Reserve", $4,858,000; 4,858,000
"Operation and Maintenance, Navy Reserve", $1,306,000; 1,306,000
"Operation and Maintenance, Marine Corps Reserve", $135,000; 135,000
"Operation and Maintenance, Air Force Reserve", $12,471,000; 12,471,000
"Operation and Maintenance, Army National Guard", $12,666,000; 12,666,000
"Operation and Maintenance, Air National Guard", $27,479,000; 27,479,000
"National Board for the Promotion of Rifle Practice, Army", $7,000; 7,000
"Court of Military Appeals, Defense", $36,000; 36,000
[*Total, Operation and Maintenance, $523,019,000.*]

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

"Research, Development, Test, and Evaluation, Army", $14,955,000; 14,955,000
"Research, Development, Test, and Evaluation, Navy", $1,477,000; 1,477,000
"Research, Development, Test, and Evaluation, Air Force", $13,609,000; 13,609,000
"Research, Development, Test, and Evaluation, Defense Agencies", $5,165,000; 5,165,000
[*Total, Research, Development Test, and Evaluation, $35,206,000.*]

MILITARY CONSTRUCTION

"Military Construction, Army", $4,136,000; 4,136,000
"Military Construction, Navy", $1,736,000; 1,736,000
"Military Construction, Army Reserve", $53,000; 53,000
[*Total, Military Construction, $5,925,000.*]

FAMILY HOUSING

"Family Housing, Army", $435,000; 435,000
[*Total, Department of Defense—Military, $564,585,000.*]

DEPARTMENT OF DEFENSE—CIVIL

(INCLUDING TRANSFER OF FUNDS)

CEMETERIAL EXPENSES—ARMY

"Salaries and expenses", $40,000; $40,000

CORPS OF ENGINEERS—CIVIL

"General expenses", $1,400,000, to be derived by transfer from "Construction, General"; *1,400,000 (by transfer)*

SOLDIERS' AND AIRMEN'S HOME

"Operation and maintenance", not to exceed $578,000, to be derived by transfer from "Capital outlay"; *578,000 (by transfer)*

[*Total, Department of Defense—Civil, $40,000.*]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

(INCLUDING TRANSFER OF FUNDS)

FOOD AND DRUG ADMINISTRATION

"Salaries and expenses", $4,108,000; 4,108,000

HEALTH RESOURCES AND SERVICES ADMINISTRATION

"Health resources and services", $1,400,000, which shall be derived by transfer from unobligated balances from the Health teaching facilities activity, "Health resources and services"; *1,400,000 (by transfer)*

"Indian health services", $4,000,000; 4,000,000

CENTERS FOR DISEASE CONTROL

"Disease control, research, and training", $1,237,000; 1,237,000

NATIONAL INSTITUTES OF HEALTH

"Office of the Director", $350,000; 350,000

SAINT ELIZABETHS HOSPITAL

"Federal Subsidy for Saint Elizabeths Hospital", $1,941,000; 1,941,000

DEPARTMENTAL MANAGEMENT

"Office of the Inspector General", $500,000, to be derived by transfer from "Grants to States for Medicaid" in the Health Care Financing Administration; *500,000 (by transfer)*

"Office of Consumer Affairs", $8,000; 8,000

[*Total, Department of Health and Human Services, $11,644,000.*]

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

"Management of lands and resources", $3,780,000; 3,780,000

"Oregon and California grant lands", $479,000; 479,000

[*Total, Bureau of Land Management, $4,259,000.*]

UNITED STATES FISH AND WILDLIFE SERVICE

"Resource management", $2,800,000; $2,800,000

NATIONAL PARK SERVICE

"Operation of the national park system", $4,000,000; 4,000,000
"National recreation and preservation", $100,000; 100,000
[*Total, National Park Service, $4,100,000.*]

GEOLOGICAL SURVEY

"Surveys, investigations, and research", $4,206,000; 4,206,000

BUREAU OF MINES

"Mines and minerals", $1,350,000; 1,350,000

BUREAU OF RECLAMATION

"Construction Program", $2,350,000; 2,350,000
"Operation and Maintenance", $1,567,000; 1,567,000
[*Total, Bureau of Reclamation, $3,917,000.*]

BUREAU OF INDIAN AFFAIRS

"Operation of Indian programs", $4,500,000; 4,500,000

DEPARTMENTAL OFFICES

"Office of the Secretary", $200,000: *Provided,* That the limitation on expenses for the immediate Office of the Secretary in fiscal year 1987 under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Law 99-500 and Public Law 99-591, shall be increased only to the extent necessary for agency contributions for retirement costs prescribed by the Civil Service Retirement System (5 U.S.C. ch. 83) and the Federal Employees Retirement System Act of 1986 (Public Law 99-335); 200,000
"Office of the Solicitor", $200,000; 200,000
"Office of Inspector General", $180,000; 180,000
[*Total, Departmental Offices, $580,000.*]
[*Total, Department of the Interior, $25,712,000.*]

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

"Salaries and expenses", $778,000; 778,000

UNITED STATES PAROLE COMMISSION

"Salaries and expenses", $155,000; 155,000

LEGAL ACTIVITIES

"Salaries and expenses, general legal activities", $2,213,000; 2,213,000
"Salaries and expenses, Antitrust Division", $430,000, to remain available until September 30, 1988; 430,000
"Salaries and expenses, United States Attorneys", $3,510,000; 3,510,000
"Salaries and expenses, Oversight of Bankruptcy Cases", $150,000; 150,000
"Salaries and expenses, United States Marshals Service", $3,211,000; 3,211,000

"Salaries and expenses, Community Relations Service", $85,000 of which $22,000 shall remain available until expended;	$85,000
[*Total, Legal Activities, $9,599,000.*]	
FEDERAL BUREAU OF INVESTIGATION	
"Salaries and expenses", $23,005,000;	23,005,000
DRUG ENFORCEMENT ADMINISTRATION	
"Salaries and expenses", $7,324,000;	7,324,000
IMMIGRATION AND NATURALIZATION SERVICE	
"Salaries and expenses", $10,186,000;	10,186,000
FEDERAL PRISON SYSTEM	
"Salaries and expenses", $17,053,000;	17,053,000
"National Institute of Corrections", $129,000;	129,000
"Buildings and Facilities", $208,000;	208,000
"Limitation on administrative and vocational training expenses, Federal Prison Industries, Incorporated" (increase of $25,000 in the limitation on Administrative expenses, and of $30,000 in Vocational Training expenses);	*55,000 (increase in limitation)*
[*Total, Federal Prison System, $17,390,000.*]	
OFFICE OF JUSTICE PROGRAMS	
"Salaries and expenses", $210,000;	210,000
[*Total, Department of Justice, $68,647,000.*]	

DEPARTMENT OF LABOR

(INCLUDING TRANSFER OF FUNDS)

EMPLOYMENT AND TRAINING ADMINISTRATION	
"Program administration", $808,000 to be derived from the unobligated balances of Employment Standards Administration, "Salaries and expenses";	*808,000 (by transfer)*
EMPLOYMENT STANDARDS ADMINISTRATION	
"Black Lung Disability Trust Fund", $494,000, of which $224,000 shall be available for transfer to Employment Standards Administration, "Salaries and expenses" and of which $270,000 shall be available for transfer to Departmental Management, "Salaries and expenses";	494,000
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION	
"Salaries and expenses", $1,533,000 to be derived from the unobligated balances of Employment Standards Administration, "Salaries and expenses";	*1,533,000 (by transfer)*
MINE SAFETY AND HEALTH ADMINISTRATION	
"Salaries and expenses", $1,941,000 to be derived from the unobligated balances of Employment Standards Administration, "Salaries and expenses";	*1,941,000 (by transfer)*

DEPARTMENTAL MANAGEMENT

"Salaries and expenses", $1,302,000 of which $199,000 shall be derived from unobligated balances of the Employment Standards Administration, "Salaries and expenses", and $1,103,000 shall be derived by transfer from Employment Standards Administration, "Salaries and expenses"; — *$1,302,000 (by transfer)*

"Office of the Inspector General", $556,000 to be derived by transfer from Employment Standards Administration, "Salaries and expenses"; — *556,000 (by transfer)*

[*Total, Department of Labor, $494,000.*]

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

"Salaries and expenses", $16,734,000; — 16,734,000

DEPARTMENT OF TRANSPORTATION

(INCLUDING TRANSFERS OF FUNDS)

OFFICE OF THE SECRETARY

"Salaries and expenses", $450,000, to be derived from the unobligated balances of "Payments to air carriers"; — *450,000 (by transfer)*

COAST GUARD

"Operating expenses", $1,723,200, to be derived from the unobligated balances of the "Offshore Oil Pollution Compensation Fund"; — *1,723,200 (by transfer)*

FEDERAL AVIATION ADMINISTRATION

"Headquarters administration", $350,000, to be derived by transfer from "Operation and maintenance, Metropolitan Washington airports"; — *350,000 (by transfer)*

"Operations", $46,000,000, of which $5,000,000 shall be derived by transfer from "Retired pay": *Provided*, That, notwithstanding section 511 of this Act or any other provision of law, such funds shall remain available until expended; — 41,000,000 *5,000,000 (by transfer)*

FEDERAL HIGHWAY ADMINISTRATION

"Limitation on general operating expenses" (increase of $1,600,000 in the limitation on general operating expenses); — *1,600,000 (increase in limitation)*

"Motor carrier safety", $660,000, to be derived from unobligated balances of funds made available by section 311 of Public Law 96-131 for replacement of facilities associated with Interstate Route 170 and to be merged with this account notwithstanding any limitation on obligations for Federal-aid highways; — *660,000 (by transfer)*

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

"Operations and research", $400,000; — 400,000

FEDERAL RAILROAD ADMINISTRATION

"Office of the Administrator", $100,000, to be derived from the unobligated balances of "Conrail labor protection"; — *100,000 (by transfer)*

"Railroad safety", $250,000, of which $135,000 shall be derived from the unobligated balances of "Conrail labor protection"; — 115,000 *135,000 (by transfer)*

URBAN MASS TRANSPORTATION ADMINISTRATION

"Administrative expenses", $300,000, to be derived from the unobligated balances of "Research, training, and human resources"; *$300,000 (by transfer)*

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

"Limitation on administrative expenses, Saint Lawrence Seaway Development Corporation" (increase of $30,000 in the limitation on administrative expenses); *30,000 (increase in limitation)*

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

"Research and special programs", $100,000, to be derived from the unobligated balances of "Payments to air carriers"; *100,000 (by transfer)*

OFFICE OF THE INSPECTOR GENERAL

"Salaries and expenses", $354,400, to be derived from the unobligated balances of "Payments to air carriers"; *354,400 (by transfer)*

[*Total, Department of Transportation, $41,515,000.*]

RELATED AGENCIES

NATIONAL TRANSPORTATION SAFETY BOARD

(TRANSFER OF FUNDS)

"Salaries and expenses", $150,000, to be derived by transfer from the unobligated balances of "Payments to air carriers"; *150,000 (by transfer)*

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

"Salaries and expenses", $863,000; 863,000

FEDERAL LAW ENFORCEMENT TRAINING CENTER

"Salaries and expenses", $167,000; 167,000

FINANCIAL MANAGEMENT SERVICE

"Salaries and expenses", $1,164,000; 1,164,000

UNITED STATES CUSTOMS SERVICE

"Salaries and expenses", $10,066,000; 10,066,000

UNITED STATES MINT

"Salaries and expenses", $422,000; 422,000

BUREAU OF THE PUBLIC DEBT

"Salaries and expenses", $1,058,000; 1,058,000

INTERNAL REVENUE SERVICE

"Processing Tax Returns", $81,854,000; 81,854,000
"Examination and Appeals", $23,325,000; 23,325,000
"Investigation, Collection, and Taxpayer Service", $11,711,000; 11,711,000
[*Total, Internal Revenue Service, $116,890,000.*]

UNITED STATES SECRET SERVICE

"Salaries and expenses", $5,387,000; $5,387,000
[*Total, Department of the Treasury, $136,017,000.*]

ENVIRONMENTAL PROTECTION AGENCY

"Salaries and expenses", $5,000,000; 5,000,000

GENERAL SERVICES ADMINISTRATION

FEDERAL SUPPLY SERVICE

"Operating expenses", $1,611,000: *Provided,* That in addition to this appropriation, the annual limitation for expenses of transportation audit contracts and contract administration payable from overcharges collected is increased by $6,000 to $10,510,000; 1,611,000

INFORMATION RESOURCES MANAGEMENT SERVICE

"Operating expenses", $328,000; 328,000

FEDERAL PROPERTY RESOURCES SERVICE

"Operating expenses", $290,000; 290,000

GENERAL MANAGEMENT AND ADMINISTRATION

"Salaries and expenses", $1,214,000; 1,214,000

OFFICE OF INSPECTOR GENERAL

"Office of Inspector General", $373,000; 373,000

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

"Allowances and Office Staff for Former Presidents", $5,000; 5,000

FEDERAL BUILDINGS FUND

"Limitations on availability of revenue", in addition to the aggregate amount heretofore made available for real property management and related activities in fiscal year 1987, $5,762,000 shall be available for such purposes and the limitation on the amount available for real property operations is increased to $758,284,000 and the limitation on the amount available for program direction and centralized services is increased to $57,315,000 and the limitation on the amount available for design and construction services is increased to $63,807,000: *Provided,* That any revenues and collections and any other sums accruing to this fund during fiscal year 1987, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)), in excess of $2,453,518,700 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts; *5,762,000 (limitation on availability of revenue)*

"Consumer Information Center", $6,000 (and an increase of $6,000 in the limitation on administrative expenses); 6,000 *6,000 (increase in limitation)*

[*Total, General Services Administration, $3,827,000.*]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

(TRANSFER OF FUNDS)

"Research and program management", $10,500,000, of which $7,000,000 shall be derived by transfer from "Research and development" and $3,500,000 shall be derived by transfer from "Space flight, control and data communications"; *10,500,000 (by transfer)*

SMALL BUSINESS ADMINISTRATION

(TRANSFER OF FUNDS)

"Salaries and expenses", $2,400,000, to be derived by transfer from the "Business Loan and Investment Fund";	*$2,400,000 (by transfer)*

VETERANS ADMINISTRATION

"Medical care", $131,600,000;	131,600,000
"Medical and prosthetic research", $1,024,000;	1,024,000
"Medical administration and miscellaneous operating expenses", $175,000;	175,000
"General operating expenses", $5,000,000;	5,000,000
"Construction, minor projects" (an increase of $275,000 in the limitation on the expenses of the Office of Facilities);	*275,000 (increase in limitation)*
[*Total, Veterans Administration, $137,799,000.*]	

OTHER INDEPENDENT AGENCIES

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

"Salaries and expenses", $14,000;	14,000

ADVISORY COMMITTEE ON FEDERAL PAY

"Salaries and expenses", $2,000;	2,000

ARMS CONTROL AND DISARMAMENT AGENCY

"Arms control and disarmament activities", $176,000;	176,000

COMMISSION ON CIVIL RIGHTS

"Salaries and expenses", $19,000;	19,000

CONSUMER PRODUCT SAFETY COMMISSION

"Salaries and expenses", $250,000;	250,000

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"Salaries and expenses", $1,889,000;	1,889,000

EXPORT-IMPORT BANK

"Limitation on administrative expenses" (increase of $227,000 in the limitation on administrative expenses);	*227,000 (increase in limitation)*

FEDERAL COMMUNICATIONS COMMISSION

"Salaries and expenses", $1,199,000;	1,199,000

FEDERAL ELECTION COMMISSION

"Salaries and expenses", $83,000;	83,000

FEDERAL HOME LOAN BANK BOARD

"Limitation on administrative expenses, Federal Home Loan Bank Board", (increase of $200,000);	*200,000 (increase in limitation)*

FEDERAL LABOR RELATIONS AUTHORITY	
"Salaries and expenses", $220,000;	$220,000
FEDERAL MARITIME COMMISSION	
"Salaries and expenses", $147,000;	147,000
FEDERAL MEDIATION AND CONCILIATION SERVICE	
"Salaries and expenses", $188,000;	188,000
INTELLIGENCE COMMUNITY STAFF	
"Intelligence Community Staff", $155,000;	155,000
MARINE MAMMAL COMMISSION	
"Salaries and expenses", $10,000;	10,000
MERIT SYSTEMS PROTECTION BOARD	
"Salaries and expenses", $272,000;	272,000
"Office of Special Counsel", $79,000;	79,000
[*Total, Merit Systems Protection Board, $351,000.*]	
NATIONAL ARCHIVES AND RECORDS ADMINISTRATION	
"Operating expenses", $863,000;	863,000
NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE	
"Salaries and expenses", $17,000;	17,000
NATIONAL COUNCIL ON THE HANDICAPPED	
"Salaries and expenses", $10,000;	10,000
NATIONAL ENDOWMENT FOR THE HUMANITIES	
"Grants and administration", $200,000;	200,000
NATIONAL LABOR RELATIONS BOARD	
"Salaries and expenses", $1,659,000;	1,659,000
NATIONAL MEDIATION BOARD	
"Salaries and expenses", $44,000;	44,000
OFFICE OF PERSONNEL MANAGEMENT	
"Salaries and expenses", $1,129,000 together with an additional amount of $682,000 for current fiscal year administration expenses for the retirement and insurance program to be transferred from the appropriate trust funds of the Office of Personnel Management in amounts to be determined by the Office of Personnel Management without regard to other statutes;	1,129,000 *682,000* *(by transfer)*
RAILROAD RETIREMENT BOARD	
"Limitation on administration" increase of $764,000 in the limitation on administration in fiscal year 1987, which shall be available only after maximum absorption within the existing limitation and	*764,000* *(increase in limitation)*

only to the extent necessary for agency contributions prescribed by the Federal Employees Retirement System Act of 1986, to be derived from the railroad retirement accounts;

"Limitation on railroad unemployment insurance administration fund" increase of $214,000 in the limitation on railroad unemployment insurance administration fund in fiscal year 1987, which shall be available only after maximum absorption within the existing limitation and only to the extent necessary for agency contributions prescribed by the Federal Employees Retirement System Act of 1986, to be derived as authorized by section 11(a)(iv) of the Railroad Unemployment Insurance Act; *$214,000 (increase in limitation)*

"Limitation on review activity" increase of $22,000 in the limitation on review activity in fiscal year 1987, which shall be available only after maximum absorption within the existing limitation and only to the extent necessary for agency contributions prescribed by the Federal Employees Retirement System Act of 1986, to be derived from the railroad retirement accounts and the railroad unemployment insurance account; *22,000 (increase in limitation)*

SECURITIES AND EXCHANGE COMMISSION

"Salaries and expenses", $2,163,000; 2,163,000

SMITHSONIAN INSTITUTION

"Salaries and expenses", $1,700,000; 1,700,000

NATIONAL GALLERY OF ART

"Salaries and expenses", $330,000; 330,000

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

"Salaries and expenses", $19,000; 19,000

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

"Holocaust memorial council", $16,000; 16,000

UNITED STATES INFORMATION AGENCY

"Salaries and expenses", $5,443,000; 5,443,000
"Radio Broadcasting to Cuba", $516,000; 516,000
[*Total, United States Information Agency, $5,959,000.*]

UNITED STATES TAX COURT

"Salaries and expenses", $75,000. 75,000

[*Total, Other Independent Agencies, $18,887,000.*]
[*Total, title III, Increased Retirement Contributions:*
[*New budget (obligational) authority ..... $1,163,781,000.*]
[*By transfer ..... 43,349,600.*]
[*Increase in limitations ..... 3,690,000.*]
[*Limitation on availability of revenue ..... 5,762,000.*]

TITLE IV

URGENT RELIEF FOR THE HOMELESS

SUPPLEMENTAL APPROPRIATIONS ACT OF 1987

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For an additional amount for "Health resources and services", for carrying out the activities authorized by H.R. 558, the Stewart B. McKinney Homeless Assistance Act, as provided for in House Report 100-174, $46,000,000 to remain available through September 30, 1988. $46,000,000

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH

For an additional amount for "Alcohol, drug abuse and mental health", for carrying out the activities authorized by H.R. 558, the Stewart B. McKinney Homeless Assistance Act, as provided for in House Report 100-174, $50,700,000 to remain available through September 30, 1988. 50,700,000

FAMILY SUPPORT ADMINISTRATION

OFFICE OF COMMUNITY SERVICES

COMMUNITY SERVICES BLOCK GRANT

For an additional amount for "Community services block grant", for carrying out the activities authorized by H.R. 558, the Stewart B. McKinney Homeless Assistance Act, as provided for in House Report 100-174, $36,800,000 to remain available through September 30, 1988. 36,800,000

[*Total, Department of Health and Human Services, $133,500,000.*]

DEPARTMENT OF EDUCATION

SPECIAL PROGRAMS

For an additional amount for "Special programs", for carrying out the activities authorized by H.R. 558, the Stewart B. McKinney Homeless Assistance Act, as provided for in House Report 100-174, $4,600,000 to remain available through September 30, 1988. 4,600,000

VOCATIONAL AND ADULT EDUCATION

For an additional amount for "Vocational and adult education", for carrying out the activities authorized by H.R. 558, the Stewart B. McKinney Homeless Assistance Act, as provided for in House Report 100-174, $6,900,000 to remain available through September 30, 1988. 6,900,000

[*Total, Department of Education, $11,500,000.*]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

EMERGENCY SHELTER GRANTS PROGRAM

For an additional amount for the emergency shelter grants program carried out by the Department of Housing and Urban Development as authorized in the Homeless Housing Act of 1986 under section 101(g) of Public Law 99-500 and Public Law 99-591, subject to the requirements for such program in the Stewart B. McKinney Homeless Assistance Act (H.R. 558), as provided for in House Report 100-174, $50,000,000, to remain available until expended. $50,000,000

SUPPORTIVE HOUSING DEMONSTRATION PROGRAM

For an additional amount for the transitional housing demonstration program carried out by the Department of Housing and Urban Development as authorized in the Homeless Housing Act of 1986 under section 101(g) of Public Law 99-500 and Public Law 99-591, subject to the requirements of the supportive housing demonstration program in the Stewart B. McKinney Homeless Assistance Act (H.R. 558), as provided for in House Report 100-174, $80,000,000, to remain available until expended. 80,000,000

SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS

For grants for supplemental assistance for facilities to assist the homeless pursuant to the Stewart B. McKinney Homeless Assistance Act (H.R. 558), as provided for in House Report 100-174, $15,000,000, to remain available until expended. 15,000,000

SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is increased by $35,000,000, to remain available until expended: *Provided*, That such amount of budget authority is to be used only to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act (H.R. 558), as provided for in House Report 100-174. 35,000,000

[*Total, Department of Housing and Urban Development, $180,000,000.*]

FEDERAL EMERGENCY MANAGEMENT AGENCY

EMERGENCY FOOD AND SHELTER PROGRAM

For an additional amount for the "Emergency food and shelter program", as authorized by section 101(g) of Public Law 99-500 and Public Law 99-591, and H.R. 558, the Stewart B. McKinney Homeless Assistance Act, as provided for in House Report 100-174, $10,000,000. 10,000,000

VETERANS ADMINISTRATION

MEDICAL CARE

For an additional amount for "Medical care", $20,000,000, to remain available through September 30, 1988, of which $15,000,000 shall be available for converting to domiciliary-care beds underutilized space located in facilities (in urban areas in which there are significant numbers of homeless veterans) under the 20,000,000

jurisdiction of the Administrator of Veterans' Affairs and for furnishing domiciliary care in such beds to eligible veterans, primarily homeless veterans, who are in need of such care, and of which $5,000,000 shall be available, notwithstanding section 2(c) of Public Law 100–6, for furnishing care under section 620C of title 38, United States Code, to homeless veterans who have a chronic mental illness disability: *Provided,* That not more than $500,000 of the amount available in connection with furnishing care under such section 620C shall be used for the purpose of monitoring the furnishing of such care and, in furtherance of such purpose, to maintain an additional 10 full-time-employee equivalents: *Provided further,* That nothing in this paragraph shall result in the diminution of the conversion of hospital-care beds to nursing-home-care beds by the Veterans Administration.

SHORT TITLE

This title may be cited as the "Urgent Relief for the Homeless Supplemental Appropriations Act of 1987".

[*Total, title IV, Urgent Relief for the Homeless, new budget (obligational) authority, $355,000,000.*]

TITLE V

GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during fiscal year 1987, limiting the amount which may be expended for personal services, or for purposes involving personal services, or amounts which may be transferred between appropriations or authorizations available for or involving such services, are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

SEC. 503. (a)(1) Except as provided in subsection (b) or (c), none of the funds appropriated or made available by this Act, or any other Act, with respect to any fiscal year, shall be available to administer or implement any drug testing pursuant to Executive Order Numbered 12564 (dated September 15, 1986), or any subsequent order, unless and until—

(A) the Secretary of Health and Human Services certifies in writing to the Committees on Appropriations of the House of Representatives and the Senate, and other appropriate committees of the Congress, that—

(i) each agency has developed a plan for achieving a drug-free workplace in accordance with Executive Order Numbered 12564 and applicable provisions of law (including applicable provisions of this section);

(ii) the Department of Health and Human Services, in addition to the scientific and technical guidelines dated February 13, 1987, and any subsequent amendments thereto, has, in accordance with paragraph (3), published mandatory guidelines which—

(I) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out Executive Order Numbered 12564, including standards which require the use of the

best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

(II) specify the drugs for which Federal employees may be tested; and

(III) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out Executive Order Numbered 12564; and

(iii) all agency drug-testing programs and plans established pursuant to Executive Order Numbered 12564 comply with applicable provisions of law, including applicable provisions of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), title 5 of the United States Code, and the mandatory guidelines under clause (ii);

(B) the Secretary of Health and Human Services has submitted to the Congress, in writing, a detailed, agency-by-agency analysis relating to—

(i) the criteria and procedures to be applied in designating employees or positions for drug testing, including the justification for such criteria and procedures;

(ii) the position titles designated for random drug testing; and

(iii) the nature, frequency, and type of drug testing proposed to be instituted; and

(C) the Director of the Office of Management and Budget has submitted in writing to the Committees on Appropriations of the House of Representatives and the Senate a detailed, agency-by-agency analysis (as of the time of certification under subparagraph (A)) of the anticipated annual costs associated with carrying out Executive Order Numbered 12564 and all other requirements under this section during the 5-year period beginning on the date of the enactment of this Act.

(2) Notwithstanding subsection (g), for purposes of this subsection, the term "agency" means—

(A) the Executive Office of the President;

(B) an Executive department under section 101 of title 5, United States Code;

(C) the Environmental Protection Agency;

(D) the General Services Administration;

(E) the National Aeronautics and Space Administration;

(F) the Office of Personnel Management;

(G) the Small Business Administration;

(H) the United States Information Agency; and

(I) the Veterans' Administration;

except that such term does not include the Department of Transportation or any other entity (or component thereof) covered by subsection (b).

(3) Notwithstanding any provision of chapter 5 of title 5, United States Code, the mandatory guidelines to be published pursuant to subsection (a)(1)(A)(ii) shall be published and made effective exclusively according to the provisions of this paragraph. Notice of the mandatory guidelines proposed by the Secretary of Health and Human Services shall be published in the Federal Register, and interested persons shall be given not less than 60 days to submit written comments on the proposed mandatory guidelines. Following review and consideration of written comments, final mandatory guidelines shall be published in the Federal Register and shall become effective upon publication.

(b)(1) Nothing in subsection (a) shall limit or otherwise affect the availability of funds for drug testing by—

(A) the Department of Transportation;

(B) Department of Energy, for employees specifically involved in the handling of nuclear weapons or nuclear materials;

(C) any agency with an agency-wide drug-testing program in existence as of September 15, 1986; or

(D) any component of an agency if such component had a drug-testing program in existence as of September 15, 1986.

(2) The Departments of Transportation and Energy and any agency or component thereof with a drug-testing program in existence as of September 15, 1986—

(A) shall be brought into full compliance with Executive Order Numbered 12564 no later than the end of the 6-month period beginning on the date of the enactment of this Act; and

(B) shall take such actions as may be necessary to ensure that their respective drug-testing programs or plans are brought into full compliance with the mandatory guidelines published under subsection (a)(1)(A)(ii) no later than 90 days after such mandatory guidelines take effect, except that any judicial challenge that affects such guidelines should not affect drug-testing programs or plans subject to this paragraph.

(c) In the case of an agency (or component thereof) other than an agency as defined by subsection (a)(2) or an agency (or component thereof) covered by subsection (b), none of the funds appropriated or made available by this Act, or any other Act, with respect to any fiscal year, shall be available to administer or implement any drug testing pursuant to Executive Order Numbered 12564, or any subsequent order, unless and until—

(1) the Secretary of Health and Human Services provides written certification with respect to that agency (or component) in accordance with clauses (i) and (iii) of subsection (a)(1)(A);

(2) the Secretary of Health and Human Services has submitted a written, detailed analysis with respect to that agency (or component) in accordance with subsection (a)(1)(B); and

(3) the Director of the Office of Management and Budget has submitted a written, detailed analysis with respect to that agency (or component) in accordance with subsection (a)(1)(C).

(d) Any Federal employee who is the subject of a drug test under any program or plan shall, upon written request, have access to—

(1) any records relating to such employee's drug test; and

(2) any records relating to the results of any relevant certification, review, or revocation-of-certification proceedings, as referred to in subsection (a)(1)(A)(ii)(III).

(e) The results of a drug test of a Federal employee may not be disclosed without the prior written consent of such employee, unless the disclosure would be—

(1) to the employee's medical review official (as defined in the scientific and technical guidelines referred to in subsection (a)(1)(A)(ii));

(2) to the administrator of any Employee Assistance Program in which the employee is receiving counseling or treatment or is otherwise participating;

(3) to any supervisory or management official within the employee's agency having authority to take the adverse personnel action against such employee; or

(4) pursuant to the order of a court of competent jurisdiction where required by the United States Government to defend against any challenge against any adverse personnel action.

(f) Each agency covered by Executive Order Numbered 12564 shall submit to the Committees on Appropriations of the House of Representatives and the Senate, and other appropriate committees of

the Congress, an annual report relating to drug-testing activities conducted by such agency pursuant to such executive order. Each such annual report shall be submitted at the time of the President's budget submission to the Congress under section 1105(a) of title 31, United States Code.

(g) For purposes of this section, the terms "agency" and "Employee Assistance Program" each has the meaning given such term under section 7(b) of Executive Order Numbered 12564, as in effect on September 15, 1986.

SEC. 504. None of the funds appropriated by this Act may be obligated for the centralization, consolidation, or redeployment of the Customs Service Air Operations unless the Secretary of the Treasury submits a report to the Committees on Appropriations which sets forth specific details for the use of such funds thirty days in advance of such implementation.

SEC. 505. None of the funds appropriated or made available by this or any other Act or otherwise appropriated or made available to the Secretary of Transportation or the Maritime Administrator for purposes of administering the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101 et seq.), shall be used by the United States Department of Transportation or the United States Maritime Administration to propose, promulgate, or implement any rule or regulation, or, with regard to vessels which repaid subsidy pursuant to the rule promulgated by the Secretary May 3, 1985 and vacated by Order of the U.S. Court of Appeals for the D.C. Circuit January 16, 1987, conduct any adjudicatory or other regulatory proceeding, execute or perform any contract, or participate in any judicial action with respect to the repayment of construction differential subsidy for the permanent release of vessels from the restrictions in section 506 of the Merchant Marine Act, 1936, as amended: *Provided*, That such funds may be used to the extent such expenditure relates to a rule which conforms to statutory standards hereafter enacted by Congress.

SEC. 506. Notwithstanding any other provision of this Act, appropriations made by title I of this Act for the following account shall be as follows:

Immigration and Naturalization Service, Salaries and Expenses, $137,216,000.

SEC. 507. Section 208(a) of the Department of Justice Appropriations Act, 1987 (Public Law 99-500 and Public Law 99-591) is hereby repealed.

SEC. 508. None of the funds provided in this or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than:

(1) countries which are members of NATO, or

(2) countries which have been designated as a major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act for Fiscal Year 1987.

SEC. 509. None of the funds made available by this or any other Act may be used for the purpose of restarting the N-Reactor at the Hanford Reservation, Washington during fiscal year 1987. For the purposes of this paragraph the term "restarting" shall mean any activity related to the operation of the N-Reactor that would achieve criticality, generate fission products within the reactor or discharge cooling water from nuclear operations: *Provided*, That this provision does not require a change in the current fuel status of the reactor.

SEC. 510. None of the funds appropriated by this or any other Act shall be available for the purpose of relocating the headquarters of the Peace Corps to office space outside of the District of Columbia.

SEC. 511. None of the funds appropriated or otherwise made available in title III of this Act may be used for purposes other than for Federal Employees Retirement System costs authorized by or pursuant to the Federal Employees Retirement System Act of 1986 (Public Law 99-335). Notwithstanding any other provision of this Act, any funds provided in title III of this Act not utilized by September 30, 1987, for agency contributions prescribed by the Federal Employees Retirement System Act of 1986 (Public Law 99-335) shall lapse.

SEC. 512. (a) The Congress finds that--

(1) the people of Angola have suffered under colonial domination for centuries;

(2) the Portuguese promise of independence and free elections for Angola embodied in the Alvor Accord of 1975 was nullified when the Marxist Popular Movement for the Liberation of Angola (hereafter in this resolution referred to as the "MPLA") illegally and militarily seized power with the support of Soviet and Cuban troops;

(3) the Marxist regime in Angola has continually denied the most basic human rights to the people of Angola since 1975 culminating in one of the worst human rights records reported by the Department of State, as described in the report entitled "Country Reports on Human Rights Practices for 1986";

(4) the Marxist regime in Angola has allowed the country of Angola to become a Soviet base for aggression and subversion in southern Africa, including the expansion of a Soviet naval port, the presence of 35,000 Cuban troops, and the influx of $4,000,000,000 in Soviet weaponry;

(5) the naval port facilities in Angola pose serious potential threats to United States naval interests in the Atlantic and around the Cape of Good Hope;

(6) the Soviets and Cubans have engaged in the most blatant foreign intervention in post-colonial history of Africa, and the MPLA is hostage to these foreign forces as evidenced by the fact that the MPLA had the worst anti-United States voting record in the United Nations last year;

(7) the MPLA government of Angola in 1986 obtained 90 percent of its foreign exchange from the extraction and production of oil with the assistance of American companies;

(8) most Angola's oil is extracted in Cabinda Province, where 65 percent of it is extracted by an American oil company;

(9) United States business interests are in direct conflict with overall United States foreign policy and national security objectives in aiding the MPLA government;

(10) the United States currently refuses to recognize the Marxist government of the MPLA;

(11) representatives of the Government of Portugal's three main political parties have recently visited the liberated territory and will soon announce a commission to promote national reconciliation in Angola;

(12) the United States has an obligation to encourage peace, freedom, and democracy and to condemn tyranny where it may exist; and

(13) the growing intensity of war, the mounting suffering of the Angolan people, the growing presence of communist forces in Angola, and the failure of the MPLA to respond to diplomatic initiatives gives new urgency to efforts to reach a peaceful settlement.

(b) It is the sense of the Congress that the United States, so long as Soviet and Cuban military forces occupy Angola, should encourage peace and national reconciliation in Angola through a negotiated

settlement to the eleven-year military conflict and stress the holding of free and fair elections as outlined in the 1975 Alvor Agreement through—

(1) continued multilateral initiatives designed to support Soviet and Cuban withdrawal and a negotiated peaceful settlement acceptable to the people of Angola; and

(2) consistent efforts by the President and the Secretary of State to convey to the Soviet leadership that continued military build-up and presence in Angola directly hinders future positive relationships with the American people and the United States Congress.

(c) The Congress hereby requests the President to use his special authorities under the Export Administration Act to block United States business transactions which conflict with United States security interests in Angola.

(d) It is further the sense of the Congress that the Secretary of State should—

(1) review the United States policy with respect to the United States refusal to recognize the Marxist MPLA government, the abysmal human rights record of the MPLA government (as reported by the Department of State), and the worst 1985 voting record supporting United States interests in the United Nations; and

(2) prepare and transmit to the Congress a report containing the findings of the review required by paragraph (1), together with a determination as to whether it is in the United States interest to continue under the current trade and business policy with respect to Angola.

SEC. 513. None of the funds made available by this or any other Act for fiscal year 1987 for Health Care Financing Administration Program Management activities shall be used to promulgate or enforce any rule, regulation, instruction, or other policy having the effect of establishing a mandatory holding of Medicare claims processing or payments.

SEC. 514. It is the sense of the Congress that no funds provided under this Act may be used for the payment of severance pay to any employee of the International Bank for Reconstruction and Development (World Bank).

SEC. 515. (a) In addition to amounts appropriated in this Act, there are appropriated to the Centers for Disease Control for "Disease control, research, and training", $27,000,000. $27,000,000

(b)(1) In the cases of all appropriations accounts from which expenses for travel, transportation, and subsistence (including per diem allowances) are paid under chapter 57 of title 5, United States Code, there are hereby prohibited to be obligated under such accounts in fiscal year 1987 a uniform percentage of such amounts, as determined by the President in accordance with the provisions of paragraph (2), as, but for this subsection, would—

(A) be available for obligation in such accounts as of June 1, 1987,

(B) be planned to be obligated for such expenses after such date during fiscal year 1987, and

(C) result in total outlays of $18 million in fiscal year 1987.

(2) Before making determinations under paragraph (1), the President shall obtain from the Director of the Office of Management and Budget and the Comptroller General of the United States recommendations for determinations with respect to (A) the identification of the accounts affected, (B) the amount in each such account available as of such date for obligation, (C) the amounts planned to be obligated for such expenses after such date in fiscal year 1987, and (D) the uniform percentage by which such amounts need to be reduced in order to comply with paragraph (1).

(c) Within 30 days after the date of enactment of this Act, the President shall prepare and transmit to the Congress a report specifying the determinations of the President under subsection (b).

(d) Sections 1341(a) and 1517 of title 31, United States Code, apply to each account for which a determination is made by the President under subsection (b).

SEC. 516. The matter under the heading "Public Education System" in title I of the District of Columbia Appropriations Act, 1987 (Public Law 99-591; 100 Stat. 3341-184) is amended by striking out "*Provided further,* That of the amount made available to the University of the District of Columbia, $1,146,000 shall be used solely for the operation of the Antioch School of Law: *Provided further,* That acquisition or merger of the Antioch School of Law shall have been previously approved by both the Board of Trustees of the University of the District of Columbia and the Council of the District of Columbia, and that the Council shall have issued its approval by resolution: *Provided further,* That if the Council of the District of Columbia or the Board of Trustees of the University of the District of Columbia fails to approve the acquisition or merger of the Antioch School of Law, the $1,146,000 shall be used solely for the repayment of the general fund deficit." and inserting in lieu thereof "*Provided further,* That $1,146,000 shall be used solely for the operation of the District of Columbia School of Law and which shall remain available until expended: *Provided further,* That acquisition or merger of the Antioch School of Law shall have been previously approved by the Council of the District of Columbia: *Provided further,* That the interim Board of Governors of the District of Columbia School of Law shall report, by October 1, 1987 to the Mayor of the District of Columbia, the Council of the District of Columbia, and the Appropriations Committees of the Senate and House of Representatives on the anticipated operating and capital expenses of the District of Columbia School of Law as created by District of Columbia Law 6-177, for the next five years: *Provided further,* That the aforementioned report shall also include a statement from the American Bar Association on the current status of the accreditation proposal for the District of Columbia School of Law, as created by District of Columbia Law 6-177, as amended: *Provided further,* That if the Council of the District of Columbia fails to approve the acquisition or merger of the Antioch School of Law, the $1,146,000 shall be used solely for the repayment of the general fund deficit.".

SEC. 517. It is the sense of the Congress that the Commodity Credit Corporation in implementing regulations to establish the percentage share or metric tonnage of commodities under subparagraph (B) of section 901b(c)(2) of the Merchant Marine Act, 1936 (46 U.S.C. 1241f(c)(2)(B)) should respect the intent as well as the letter of the agreement entered into by and between the representatives of Great Lakes ports and Gulf ports, and that so far as practicable, Great Lakes ports be accorded the full proportion of tonnage contemplated thereby.

SEC. 518. On or before August 31, 1987, the President, pursuant to his existing power under section 212(a)(6) of the Immigration and Nationality Act, shall add human immunodeficiency virus infection to the list of dangerous contagious diseases contained in title 42 of the Code of Federal Regulations.

SEC. 519. (a) Subtitle C of title XVII of the Food Security Act of 1985 (7 U.S.C. 5001 et seq.) is amended—

(1) by striking out "National Agricultural Policy Commission Act of 1985" each place it appears in the subtitle heading and section 1721 (7 U.S.C. 5001) and inserting in lieu thereof "National Commission on Agriculture and Rural Development Policy Act of 1985"; and

(2) by striking out "National Commission on Agricultural Policy" each place it appears in sections 1722(1) and 1723(a) (7 U.S.C. 5001(1) and 5002(a)) and inserting in lieu thereof "National Commission on Agriculture and Rural Development Policy".

(b) Notwithstanding section 501(e) of the Farm Credit Amendments Act of 1985 (12 U.S.C. 2001 note), there is authorized and appropriated—

(1) for the National Commission on Agricultural Finance established under such section, $100,000, to remain available until expended; and $100,000

(2) for the National Commission on Agriculture and Rural Development established under section 1723 of the Food Security Act of 1985 (7 U.S.C. 5002), $100,000, to remain available until expended. 100,000

[*Total, title V, General Provisions, new budget (obligational) authority, $27,200,000.*]

This Act may be cited as the "Supplemental Appropriations Act, 1987".

Approved July 11, 1987.

LEGISLATIVE HISTORY—H.R. 1827

HOUSE REPORTS: No. 100-28 (Comm. on Appropriations) and No. 100-195 (Comm. of Conference).
SENATE REPORT No. 100-48 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 25, reported in the House.
Apr. 24, considered and passed House.
May 1, reported in the Senate.
May 7, 8, 12, 20, 21, 27, 28, 29, and June 2, considered and passed Senate, amended.
June 27, conference report filed in the House.
June 30, House agreed to conference report; House receded and concurred in certain Senate amendments; in others, receded and concurred with amendments in Senate amendments; and House insisted on its disagreement to a Senate amendment.
July 1, Senate agreed to conference report; Senate agreed to House amendments to Senate amendments, and receded from another amendment.

Grand total, all titles, Supplemental Appropriations Act, 1987:

New budget (obligational) authority (net)		9,377,119,976
Appropriations	$11,416,936,471	
Appropriations for debt reduction	−1,446,603,495	
Rescissions	−563,213,000	
Rescission of contract authority	−30,000,000	
By transfer	*(1,001,281,600)*	
Limitation on trust fund transfer	*(65,000,000)*	
Limitation on availability of revenue	*(67,662,000)*	
Limitation on direct loans	*(554,900,000)*	
Limitation on annual contract authority, indefinite	*(−17,119,000)*	
Limitation on callable capital	*(17,375,058)*	
Limitation on contract authority	*(25,000,000)*	
Liquidation of contract authority	*(204,915,000)*	
Disapproval of deferrals	*(145,727,000)*	
Increase in limitations	*(7,681,000)*	
Limitation on administrative expenses	*(18,000,000)*	
Limitation on program activity	*(−220,000,000)*	

NOTE.—The following tabulation is a classification by departments and establishments of new budget (obligational) authority made or rescinded in the foregoing act:

Chapter	Department or establishment	Amount
	TITLE I—PROGRAM SUPPLEMENTALS	
I	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies:	
	New budget (obligational) authority (net)	$332,937,007
	Appropriations	(1,707,937,007)
	Appropriation for debt reduction	(−1,375,000,000)
	By transfer	*10,000,000*
II	Department of Defense—Military:	
	New budget (obligational) authority	747,500,000
III	Department of Defense—Civil:	
	By transfer	*−60,455,000*
IV	Foreign Assistance and Related Programs:	
	New budget (obligational) authority	159,013,486
	By transfer	*300,000,000*
	Limitation on callable capital	*17,375,058*
	Limitation on program activity	*−220,000,000*
V	Department of Housing and Urban Development—Independent Agencies:	
	New budget (obligational) authority (net)	111,462,000
	Appropriations	(638,675,000)
	Rescissions	(−527,213,000)
	By transfer	*39,000,000*
	Disapproval of deferrals	*22,400,000*
	Limitation on annual contract authority, indefinite	*−17,119,000*
VI	Department of the Interior and Related Agencies:	
	New budget (obligational) authority (net)	23,451,000
	Appropriations	(83,451,000)
	Rescission	(−30,000,000)
	Rescission of contract authority	(−30,000,000)
	Liquidation of contract authority	*9,915,000*
	Disapproval of deferrals	*39,767,000*
VII	Departments of Labor, Health and Human Services, and Education, and Related Agencies:	
	New budget (obligational) authority	250,544,000
	By transfer	*413,583,000*
	Limitation on trust fund transfer	*65,000,000*
VIII	Legislative Branch:	
	New budget (obligational) authority	14,137,700
IX	Military Construction:	
	New budget (obligational) authority	
X	Rural Development, Argiculture, and Related Agencies:	
	New budget (obligational) authority (net)	5,620,359,000
	Appropriations	(5,626,359,000)
	Rescissions	(−6,000,000)
	By transfer	*139,705,000*
	Limitation on direct loans	*554,900,000*
XI	Department of Transportation and Related Agencies:	
	New budget (obligational) authority (net)	65,074,783
	Appropriations	(136,678,278)
	Appropriation for debt reduction	(−71,603,495)
	By transfer	*37,739,000*
	Disapproval of deferrals	*83,560,000*
	Liquidation of contract authority	*195,000,000*
	Limitation on contract authority	*25,000,000*
XII	Department of the Treasury and General Government:	
	New budget (obligational) authority	98,097,000
	Limitation on availability of revenue	*61,900,000*
	Total, title I—Program Supplementals:	
	New budget (obligational) authority (net)	7,422,575,976
	Appropriations	(9,462,392,471)
	Appropriations for debt reduction	(−1,446,603,495)
	Rescissions	(−563,213,000)
	Rescission of contract authority	(−30,000,000)
	By transfer	*879,572,000*
	Limitation on trust fund transfer	*65,000,000*
	Limitation on availability of revenue	*61,900,000*
	Limitation on direct loans	*554,900,000*
	Limitation on annual contract authority, indefinite	*−17,119,000*
	Limitation on callable capital	*17,375,058*
	Limitation on contract authority	*25,000,000*

Chapter	Department or establishment	Amount
	TITLE I—PROGRAM SUPPLEMENTALS—Continued	
	Liquidation of contract authority	*$204,915,000*
	Limitation on program activity	*−220,000,000*
	Disapproval of deferrals	*145,727,000*
	TITLE II—INCREASED PAY COSTS	
	Legislative Branch	16,415,000
	The Judiciary	16,939,000
	Executive Office of the President	83,000
	Funds Appropriated to the President	2,617,000
	Department of Agriculture	50,730,000
	By transfer	*9,081,000*
	Increase in limitation	*613,000*
	Department of Commerce *(by transfer)*	*8,927,000*
	Department of Defense—Military	12,560,000
	Department of Defense—Civil *(by transfer)*	*2,386,000*
	Department of Energy *(by transfer)*	*558,000*
	Department of Health and Human Services	19,725,000
	Limitation on administrative expenses	*18,000,000*
	Department of the Interior	41,842,000
	Department of Justice	29,473,000
	Increase in limitation	*133,000*
	Department of Labor	708,000
	By transfer	*1,936,000*
	Department of State	6,900,000
	Department of Transportation	36,317,000
	By transfer	*21,324,000*
	Increase in limitation	*1,230,000*
	National Transportation Safety Board *(by transfer)*	*165,000*
	Environmental Protection Agency	4,000,000
	By transfer	*5,000,000*
	Consumer Information Center	8,000
	Increase in limitation	*8,000*
	National Aeronautics and Space Administration *(by transfer)*	*25,000,000*
	Small Business Administration *(by transfer)*	*2,400,000*
	Veterans Administration	157,150,000
	Increase in limitation	*350,000*
	Other Independent Agencies	13,096,000
	Increase in limitation	*1,657,000*
	Total, title II—Increased Pay Costs:	
	New budget (obligational) authority	408,563,000
	By transfer	*78,360,000*
	Increase in limitations	*3,991,000*
	Limitation on administrative expenses	*18,000,000*
	TITLE III—INCREASED COSTS FOR RETIREMENT CONTRIBUTIONS (PUBLIC LAW 99-335)	
	Legislative Branch	54,459,000
	The Judiciary	11,277,000
	Executive Office of the President	1,615,000
	Funds Appropriated to the President	6,241,000
	Department of Agriculture	44,158,000
	By transfer	*10,027,000*
	Increase in limitation	*297,000*
	Department of Commerce	15,130,000
	By transfer	*400,000*
	Department of Defense—Military	564,585,000
	Department of Defense—Civil	40,000
	By transfer	*1,978,000*
	Department of Health and Human Services	11,644,000
	By transfer	*1,900,000*
	Department of the Interior	25,712,000
	Department of Justice	68,647,000
	Increase in limitation	*55,000*
	Department of Labor	494,000
	By transfer	*6,140,000*
	Department of State	16,734,000
	Department of Transportation	41,515,000
	By transfer	*9,176,600*
	Increase in limitation	*1,630,000*
	National Transportation Safety Board *(by transfer)*	*150,000*
	Department of the Treasury	136,017,000
	Environmental Protection Agency	5,000,000

Chapter	Department or establishment	Amount
	TITLE III—INCREASED COSTS FOR RETIREMENT CONTRIBUTIONS (PUBLIC LAW 99-335)—Continued	
	General Services Administration	$3,827,000
	Limitation on availability of revenue	*5,762,000*
	Increase in limitation	*6,000*
	National Aeronautics and Space Administration *(by transfer)*	*10,500,000*
	Small Business Administration *(by transfer)*	*2,400,000*
	Veterans Administration	137,799,000
	Increase in limitation	*275,000*
	Other Independent Agencies	18,887,000
	By transfer	*682,000*
	Increase in limitation	*1,427,000*
	Total, title III—Increased Cost for Retirement Contributions:	
	New budget (obligational) authority	1,163,781,000
	By transfer	*43,349,600*
	Increase in limitation	*3,690,000*
	Limitation on availability of revenue	*5,762,000*
	TITLE IV—URGENT RELIEF FOR THE HOMELESS	
	Department of Health and Human Services	133,500,000
	Department of Education	11,500,000
	Department of Housing and Urban Development	180,000,000
	Federal Emergency Management Agency	10,000,000
	Veterans Administration	20,000,000
	Total, title IV—Urgent Relief for the Homeless, new budget (obligational) authority	355,000,000
	TITLE V—GENERAL PROVISIONS	
	Department of Health and Human Services	27,000,000
	Department of Agriculture	200,000
	Total, title V—General Provisions, new budget (obligational) authority	27,200,000
	RECAPITULATION	
	Grand total, all titles:	
	New budget (obligational) authority (net)	9,377,119,976
	Appropriations	(11,416,936,471)
	Appropriations for debt reduction	(−1,446,603,495)
	Rescissions	(−563,213,000)
	Rescission of contract authority	(−30,000,000)
	By transfer	*1,001,281,600*
	Limitation on trust fund transfer	*65,000,000*
	Limitation on availability of revenue	*67,662,000*
	Limitation on direct loans	*554,900,000*
	Limitation on annual contract authority, indefinite	*−17,119,000*
	Limitation on callable capital	*17,375,058*
	Limitation on contract authority	*25,000,000*
	Liquidation of contract authority	*204,915,000*
	Disapproval of deferrals	*145,727,000*
	Increase in limitations	*7,681,000*
	Limitation on administrative expenses	*18,000,000*
	Limitation on program activity	*−220,000,000*

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS BILL, 1988

100th Congress, H.R. 2763

[NOTE.—The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, 1988 (H.R. 2763), was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on June 24, 1987, and passed the House on July 1, 1987. Subsequently, the bill was reported by the Committee on Appropriations of the Senate on September 25, 1987, and passed the Senate, amended on October 15, 1987. The Senate asked for a conference on the bill October 15, 1987, and the House agreed to a conference October 20, 1987. No further conference action occurred on H.R. 2763. Funding of those programs and activities normally included in this regular annual appropriations bill is provided under Sec. 101(a) of Public Law 100-202, approved December 22, 1987, Making Further Continuing Appropriations for fiscal year 1988. (See pp. 132-172 for text of Sec. 101(a) of Public Law 100-202, and pp. 2441-2448 for the related table VIII showing estimates and funding levels by appropriation account).]

LEGISLATIVE HISTORY—H.R. 2763

HOUSE REPORTS: No. 100-182 (Comm. on Appropriations) and No. 100-498 (Comm. of Conference, H.J. Res. 395).
SENATE REPORT No. 100-182 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
June 24, reported in the House.
July 1, considered and passed House.
Sept. 25, reported in the Senate.
Oct. 15, considered and passed Senate, amended.

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1988 under Sec. 101(a) of Public Law 100-202 for the programs and activities normally funded in this regular annual appropriations bill:

Grand total:	
New budget (obligational) authority (net)	$13,904,995,933
Appropriations, definite	(13,890,550,000)
Permanent indefinite	(7,000,000)
Current indefinite	(86,500,000)
Appropriation for debt reduction	(−77,513,000)
Rescission	(−1,541,067)
By transfer	*(151,873,000)*
Limitation on administrative expenses	*(9,918,000)*
Limitation on loan guarantees	*(150,000,000)*
Liquidation of contract authority	*(250,300,000)*
Foreign currency appropriation	*(1,700,000)*
Availability of funds	*(2,625,000)*
Total, new budget (obligational) authority, Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Bill, 1988 (net)	[1] $13,904,995,933

[1] The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, 1988 (H.R. 2763) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note", above).

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1988 provided under Sec. 101(a) of Public Law 100-202, Further Continuing Appropriations, 1988, the following additional amounts are available for the Departments of Commerce, Justice, and State, and the Judiciary for the fiscal year:

Permanent appropriations:		
Federal funds (pp. 2332, 2338 and 2339)	$532,437,000	
Trust funds (pp. 2347, 2349 and 2355)	795,429,000	
Foreign Operations, Export Financing, and Related Programs Appropriations Bill, 1988:		
Anti-terrorism assistance (p. 268)	9,840,000	
International narcotics control (p. 267)	98,750,000	
Migration and refugee assistance (p. 267)	346,450,000	
Subtotal, additions		$1,782,906,000
Deduct amounts for independent agencies transferred to the Department of Transportation and General Government totals:		
Department of Transportation:		
Maritime Administration (p. 157)	$76,463,000	
General Government:		
Arms Control and Disarmament Agency (p. 158)	30,100,000	
Board for International Broadcasting (p. 158)	219,000,000	
Christopher Columbus Quincentenary Jubilee Commission (p. 158)	212,000	
Commission on the Bicentennial of the United States Constitution (pp. 158-159)	21,000,000	
Commission on Civil Rights (p. 159)	5,707,000	
Commission on Security and Cooperation in Europe (p. 160)	701,000	
Commission for the Study of International Migration and Cooperative Economic Development (p. 160)	870,000	
Equal Employment Opportunity Commission (p. 160)	179,812,000	
Federal Communications Commission (pp. 160-161)	99,613,000	
Federal Maritime Commission (p. 161)	13,585,000	
Federal Trade Commission (p. 161)	66,243,000	
International Trade Commission (p. 161)	34,750,000	
Japan-United States Friendship Commission (pp. 161-162)	1,200,000	
Legal Services Corporation (p. 162)	305,500,000	
Marine Mammal Commission (p. 163)	953,000	
Office of the United States Trade Representative (p. 163)	15,229,000	
Securities and Exchange Commission (p. 163)	135,221,000	
Small Business Administration (pp. 163-164)	414,985,000	
State Justice Institute (p. 164)	10,980,000	
United States Information Agency (pp. 164-167)	820,021,000	
United States Sentencing Commission (p. 155)	5,129,000	
Subtotal, deductions		−2,457,274,000
Grand total, Departments of Commerce, Justice, and State, and the Judiciary (net)		[1] 13,230,627,933

[1] The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, 1988 (H.R. 2763) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on p. 91, this volume).

DEPARTMENT OF DEFENSE APPROPRIATION BILL, 1988

100th Congress, H.R. 3576

[NOTE.—The Department of Defense Appropriation Bill, 1988 (H.R. 3576), was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on October 28, 1987, and S. 1923 was reported by the Committee on Appropriations of the Senate on December 4, 1987. The bill was not acted on by the full Senate. Funding of those programs and activities normally included in this regular annual appropriations bill is provided under Sec. 101(b) of Public Law 100-202, approved December 22, 1987, Making Further Continuing Appropriations for fiscal year 1988. (See pp. 172-214 for text of Sec. 101(b) of Public Law 100-202, and pp. 2449-2452 for the related table VIII showing estimates and funding levels by appropriation account).]

LEGISLATIVE HISTORY—H.R. 3576 (S. 1923)

HOUSE REPORTS: No. 100-410 (Comm. on Appropriations) and No. 100-498 (Comm. of Conference, H.J. Res. 395).
SENATE REPORT No. 100-235 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 28, reported in the House.
Dec. 4, reported in the Senate.

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1988 Under Sec. 101(b) of Public Law 100-202 for the programs and activities normally funded in this regular annual appropriation bill:

Grand total:		
New budget (obligational) authority (net)	$275,451,818,000	
Appropriations, definite	(278,982,848,000)	
Rescissions	(−3,531,030,000)	
Transfer authority	*(1,500,000,000)*	
Total, new budget (obligational) authority, Department of Defense Appropriation Bill, 1988 (net)		[1]$275,451,818,000

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1988 provided under Sec. 101(b) of Public Law 100-202, Further Continuing Appropriations, 1988, the following additional amounts are available for the Department of Defense for the fiscal year:

Permanent appropriations:		
Federal funds (p. 2332)	$224,000,000	
Trust funds (pp. 2349-2350)	24,100,000	
Advance appropriations for fiscal year 1988 made during previous sessions of Congress:		
99th Cong., 2d session:		
Military Construction, Army (p. 459, 1986-1987 volume)	[2] *(221,000,000)*	
Military Construction Appropriation Bill, 1988:		
Department of the Army (pp. 423-434)	2,755,960,000	
Department of the Navy (pp. 423-434)	2,220,589,000	
Department of the Air Force (pp. 423-434)	2,269,705,000	
Department of Defense (pp. 423-434)	1,032,746,000	
Subtotal, additions		8,527,100,000

[1] The Department of Defense Appropriation Bill, 1988 (H.R. 3576) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note," above).
[2] Also included under "Permanent appropriations, Federal funds".

Deduct amounts transferred to General Government totals:		
General Government:		
Central Intelligence Agency Retirement and Disability System Fund (p. 189)	$134,700,000	
Intelligence Community Staff (p. 189)	23,057,000	
Subtotal, deductions		−$157,757,000
Grand total, Department of Defense (net)		[1] 283,821,161,000

[1] The Department of Defense Appropriation Bill, 1988 (H.R. 3576) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on p. 93, this volume).

DISTRICT OF COLUMBIA APPROPRIATION BILL, 1988

100th Congress, H.R. 2713

[NOTE.—The District of Columbia Appropriation Bill, 1988 (H.R. 2713), was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on June 18, 1987, and passed the House on June 26, 1987. Subsequently, the bill was reported by the Committee on Appropriations of the Senate on September 17, 1987, and passed the Senate, amended on September 30, 1987. The Senate asked for a conference on the bill September 30, 1987, and the House agreed to a conference October 15, 1987. No further conference action occurred on H.R. 2713. Funding of those programs and activities normally included in this regular annual appropriations bill is provided under Sec. 101(c) of Public Law 100-202, approved December 22, 1987, Making Further Continuing Appropriations for fiscal year 1988. (See pp. 214-228 for text of Sec. 101(c) of Public Law 100-202, and pp. 2453-2454 for the related table VIII showing estimates and funding levels by appropriation account).]

LEGISLATIVE HISTORY—H.R. 2713

HOUSE REPORTS: No. 100-172 (Comm. on Appropriations) and No. 100-498 (Comm. of Conference, H.J. Res. 395).
SENATE REPORT No. 100-162 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
June 18, reported in the House.
June 26, considered and passed House.
Sept. 17, reported in the Senate.
Sept. 30, considered and passed Senate, amended.

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1988 under Sec. 101(c) of Public Law 100-202 for the programs and activities normally funded in this regular annual appropriations bill:

Grand total:	
Federal funds (net)	$550,000,000
Appropriations, fiscal year 1988 (net)	(530,000,000)
Appropriations	(550,000,000)
Rescission	(−20,000,000)
Advance appropriation, fiscal year 1989	(20,000,000)
District of Columbia funds (net)	*(3,154,014,000)*
Appropriations, fiscal year 1988	*(3,077,347,000)*
Appropriations, fiscal year 1987 supplemental (net)	*(76,667,000)*
Appropriations	*(97,659,000)*
Rescissions	*(−20,992,000)*
Total, new budget (obligational) authority, District of Columbia Appropriation Bill, 1988 (Federal funds) (net)	[1] $550,000,000

[1] The District of Columbia Appropriation Bill, 1988 (H.R. 2713) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note", above).

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1988 provided under Sec. 101(c) of Public Law 100-202, Further Continuing Appropriations, 1988, the following additional amount is available for the District of Columbia for the fiscal year:

Permanent appropriation: Federal funds (p. 2341)	$20,000,000	
Advance appropriation for fiscal year 1988 made during previous sessions of Congress:		
99th Cong., 2d session:		
Criminal Justice Initiative (p. 358, 1986-1987 volume)	[1] *(20,000,000)*	
Subtotal, additions		$20,000,000
Deduct advance appropriations for fiscal year 1989:		
Advance appropriation for fiscal year 1989:		
Criminal Justice Initiative (p. 216)	20,000,000	
Subtotal, deductions		−20,000,000
Grand total, District of Columbia (Federal funds) (net)		[2] 550,000,000

[1] Also included under "Permanent appropriations, Federal funds".

[2] The District of Columbia Appropriation Bill, 1988 (H.R. 2713) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on page 95, this volume).

ENERGY AND WATER DEVELOPMENT APPROPRIATION BILL, 1988

100th Congress, H.R. 2700

[NOTE.—The Energy and Water Development Appropriation Bill, 1988 (H.R. 2700), was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on June 17, 1987, and passed the House on June 24, 1987. Subsequently, the bill was reported by the Committee on Appropriations of the Senate on September 16, 1987, and passed the Senate, amended on November 18, 1987. The Senate asked for a conference on the bill December 9, 1987, and the House agreed to a conference December 10, 1987. No further conference action occurred on H.R. 2700. Funding of those programs and activities normally included in this regular annual appropriations bill is provided under Sec. 101(d) of Public Law 100-202, approved December 22, 1987, Making Further Continuing Appropriations for fiscal year 1988. (See pp. 228-253 for text of Sec. 101(d) of Public Law 100-202, and pp. 2455-2457 for the related table VIII showing estimates and funding levels by appropriation account).]

LEGISLATIVE HISTORY—H.R. 2700

HOUSE REPORTS: No. 100-162 (Comm. on Appropriations) and No. 100-498 (Comm. of Conference, H.J. Res. 395).
SENATE REPORT No. 100-159 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
June 17, reported in the House.
June 24, considered and passed House.
Sept. 16, reported in the Senate.
Nov. 4, 5, 6, 10, 12, 13, 17, and 18, considered and passed Senate.

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1988 under Sec. 101(d) of Public Law 100-202 for the programs and activities normally funded in this regular annual appropriations bill:

Grand total:	
New budget (obligational) authority	$15,613,598,000
By transfer	*(104,000,000)*
Limitation on direct loans	*(31,972,000)*
Limitation on guaranteed loans	*(500,000,000)*
Total, new budget (obligational) authority (all definite appropriations), Energy and Water Development Appropriation Bill, 1988	[1] $15,613,598,000

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1988 provided under Sec. 101(d) of Public Law 100-202, Further Continuing Appropriations, 1988, the following additional amounts are available for the Departments of Energy and Defense—Civil functions for the fiscal year:

Permanent appropriations:	
Federal funds (pp. 2332-2333)	$11,426,050,000
Trust funds (pp. 2350-2351)	34,031,505,000
Department of Housing and Urban Development—Independent Agencies Appropriations Bill, 1988:	
Cemeterial expenses, Army (p. 314)	8,164,000

[1] The Energy and Water Development Appropriation Bill, 1988 (H.R. 2700) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note", above).

Department of the Interior and Related Agencies Appropriations Bill, 1988:		
Department of Energy (pp. 355–359)	$1,538,196,000	
Department of Labor, Health and Human Services, and Education and Related Agencies Appropriation Bill, 1988:		
Soldiers' and Airmen's Home (pp. 400–401)	51,324,000	
Subtotal, additions		$47,055,239,000
Deduct amounts transferred to the Department of the Interior and General Government totals:		
Department of the Interior:		
Bureau of Reclamation (pp. 236–242)	$956,305,000	
General Government:		
Appalachian Regional Commission (p. 250)	107,000,000	
Delaware River Basin Commission (p. 250)	466,000	
Interstate Commission on the Potomac River Basin (p. 250)	379,000	
Nuclear Regulatory Commission (pp. 250–251)	196,400,000	
Susquehanna River Basin Commission (p. 251)	446,000	
Tennessee Valley Authority (pp. 251–252)	103,000,000	
Subtotal, deductions		−1,363,996,000
Grand total, Departments of Energy and Defense—Civil functions		[1] 61,304,841,000

[1] The Energy and Water Development Appropriation Bill, 1988 (H.R. 2700) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on p. 97, this volume).

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS BILL, 1988

100th Congress, H.R. 3186

[NOTE.—The Foreign Operations, Export Financing, and Related Programs Appropriations Bill, 1988 (H.R. 3186), was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on August 6, 1987, and S. 1924 was reported by the Committee on Appropriations of the Senate on December 4, 1987. The bill was not acted on by the full Senate. Funding of those programs and activities normally included in this regular annual appropriations bill is provided under Sec. 101(e) of Public Law 100-202, approved December 22, 1987, Making Further Continuing Appropriations for fiscal year 1988. (See pp. 253-305 for text of Sec. 101(e) of Public Law 100-202, and pp. 2458-2461 for the related table VIII showing estimates and funding levels by appropriation account).]

LEGISLATIVE HISTORY—H.R. 3186 (S. 1924)

HOUSE REPORTS: No. 100-283 (Comm. on Appropriations) and No. 100-498 (Comm. of Conference, H.J. Res. 395).
SENATE REPORT No. 100-236 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Aug. 6, reported in the House.
Dec. 4, reported in the Senate.

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1988 under Sec. 101(e) of Public Law 100-202 for the programs and activities normally funded in this regular annual appropriations bill:

Grand total:		
New budget (obligational) authority	$13,598,746,741	
Limitation on obligations	*(236,865,000)*	
Limitation on guaranteed loans	*(10,325,000,000)*	
Limitation on direct loans	*(725,000,000)*	
Limitation on callable capital	*(1,145,758,350)*	
Limitation on administrative expenses	*(19,500,000)*	
Limitation on program activity	*(200,000,000)*	
Rescission of loan authority	*(−32,000,000)*	
Total, new budget (obligational) authority, Foreign Operations, Export Financing, and Related Programs Appropriations Bill, 1988		[1] $13,598,746,741

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1988 provided under Sec. 101(e) of Public Law 100-202, Further Continuing Appropriations, 1988, the following additional amounts are available for Foreign Operations and Export Financing activities for the fiscal year:

Permanent appropriations:		
Federal funds (p. 2330)	$22,000,000	
Trust funds (p. 2348)	9,142,365,000	
Subtotal, additions		9,164,365,000

[1] The Foreign Operations, Export Financing, and Related Programs Appropriations Bill, 1988 (H.R. 3186) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note", above).

Deduct amounts transferred to Department of State totals:		
Anti-terrorism assistance (p. 268)	$9,840,000	
International narcotics control (p. 267)	98,750,000	
Migration and refugee assistance (pp. 267–268)	346,450,000	
Subtotal, deductions		−$455,040,000
Grand total, Foreign Operations and Export Financing		[1] 22,308,071,741

[1] The Foreign Operations, Export Financing, and Related Programs Appropriations Bill, 1988 (H.R. 3186) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on p. 99, this volume).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATIONS BILL, 1988

100th Congress, H.R. 2783

[NOTE.—The Department of Housing and Urban Development—Independent Agencies Appropriations Bill, 1988 (H.R. 2783), was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on June 25, 1987. A supplemental report was filed on September 16, 1987 (Pt. II, Union Calendar), and passed the House on September 22, 1987. Subsequently, the bill was reported by the Committee on Appropriations of the Senate on October 6, 1987, and passed the Senate, amended on October 15, 1987. The Senate asked for a conference on the bill October 15, 1987, and the House agreed to a conference October 20, 1987. No further conference action occurred on H.R. 2783. Funding of those programs and activities normally included in this regular annual appropriations bill is provided under Sec. 101(f) of Public Law 100-202, approved December 22, 1987, Making Further Continuing Appropriations for fiscal year 1988. (See pp. 305-330 for text of Sec. 101(f) of Public Law 100-202, and pp. 2462-2466 for the related table VIII showing estimates and funding levels by appropriation account).]

LEGISLATIVE HISTORY—H.R. 2783

HOUSE REPORTS: No. 100-189 (Comm. on Appropriations) and No. 100-498 (Comm. of Conference, H.J. Res. 395).
SENATE REPORT: No. 100-192 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
June 25, reported in the House.
Sept. 16, supplemental report filed (Pt. II, Union Calendar).
Sept. 22, considered and passed House.
Oct 6, reported in the Senate.
Oct. 15, considered and passed Senate, amended.

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1988 under Sec. 101(f) of Public Law 100-202 for the programs and activities normally funded in this regular annual appropriations bill:

Grand total:	
New budget (obligational) authority (net)	$56,564,546,000
Appropriations	(48,495,915,000)
Portion applied to debt reduction	(−118,250,000)
Authority to borrow	(556,176,000)
Contract authority	(7,887,405,000)
Rescission of contract authority, indefinite	(−256,700,000)
By transfer	*(100,000,000)*
Limitation on administrative expenses	*(314,106,000)*
Limitation on annual contract authority, indefinite	*(−2,000,000)*

Limitation on direct loans	*($1,247,008,000)*
Limitation on guaranteed loans	*(240,144,000,000)*
Limitation on corporate funds to be expended	*(390,868,000)*

Total, new budget (obligational) authority, Department of Housing and Urban Development—Independent Agencies Appropriations Bill, 1988 (net) [1] $56,564,546,000

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1988 provided under Sec. 101(f) of Public Law 100-202, Further Continuing Appropriations, 1988, the following additional amounts are available for the Department of Housing and Urban Development for the fiscal year:

Permanent appropriations:		
Federal funds (pp. 2334-2335)	$1,940,060,000	
Trust funds (p. 2352)	5,000	
Subtotal, additions		1,940,065,000

Deduct amounts for offices and independent agencies transferred to Defense—Civil functions, Department of Health and Human Services, and General Government totals:

Defense—Civil functions:		
Cemeterial expenses, Army (p. 314)	$8,164,000	
Department of Health and Human Services:		
Office of Consumer Affairs (p. 319)	1,670,000	
General Government:		
American Battle Monuments Commission (pp. 312-314)	12,408,000	
Consumer Product Safety Commission (p. 314)	32,696,000	
Environmental Protection Agency (pp. 314-317)	5,027,442,000	
Executive Office of the President (pp. 317-318)	2,714,000	
Federal Emergency Management Agency (pp. 318-319)	632,337,000	
General Services Administration—Consumer Information Center (p. 319)	1,279,000	
National Aeronautics and Space Administration (pp. 319-321)	8,856,461,000	
National Science Foundation (pp. 321-322)	1,717,000,000	
Neighborhood Reinvestment Corporation (p. 322)	18,720,000	
Selective Service System (p. 322)	25,459,000	
Veterans Administration (pp. 323-327)	27,024,784,000	
Subtotal, deductions		−43,361,134,000

Grand total, Department of Housing and Urban Development (net) [1] 15,143,477,000

[1] The Department of Housing and Urban Development—Independent Agencies Appropriations Bill, 1988 (H.R. 2783) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on p. 101, this volume).

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL, 1988

100th Congress, H.R. 2712

[NOTE.—The Department of the Interior and Related Agencies Appropriations Bill, 1988 (H.R. 2712), was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on June 18, 1987, and passed the House on June 25, 1987. Subsequently, the bill was reported by the Committee on Appropriations of the Senate on September 22, 1987, and passed the Senate, amended on September 30, 1987. The Senate asked for a conference on the bill September 30, 1987, and the House agreed to a conference October 15, 1987. No further conference action occurred on H.R. 2712. Funding of those programs and activities normally included in this regular annual appropriations bill is provided under Sec. 101(g) of Public Law 100-202, approved December 22, 1987, Making Further Continuing Appropriations for fiscal year 1988. (See pp. 331-371 for text of Sec. 101(g) of Public Law 100-202, and pp. 2467-2472 for the related table VIII showing estimates and funding levels by appropriation account).]

LEGISLATIVE HISTORY—H.R. 2712

HOUSE REPORTS: No. 100-171 (Comm. on Appropriations) and No. 100-498 (Comm. of Conference, H.J. Res. 395).
SENATE REPORT No. 100-165 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
June 18, reported in the House.
June 24 and 25, considered and passed House.
Sept. 22, reported in the Senate.
Sept. 30, considered and passed Senate, amended.

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1988 under Sec. 101(g) of Public Law 100-202 for the programs and activities normally funded in this regular annual appropriations bill:

Grand total:		
New budget (obligational) authority (net)	$9,827,216,000	
Appropriations, fiscal year 1988 (net)	(9,302,216,000)	
Appropriations, definite	(9,423,575,000)	
Appropriations, indefinite	(−14,459,000)	
Rescissions	(−106,900,000)	
Advance appropriation, fiscal year 1989	(525,000,000)	
Liquidation of contract authority	*(31,000,000)*	
Timber receipt transfer to general fund, indefinite	*(−75,023,000)*	
By transfer	*(20,894,000)*	
Total, new budget (obligational) authority, Department of the Interior and Related Agencies Appropriations Bill, 1988 (net)		[1] $9,827,216,000

[1] The Department of the Interior and Related Agencies Bill, 1988 (H.R. 2712) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" above).

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1988 provided under Sec. 101(g) of Public Law 100-202, Further Continuing Appropriations, 1988, the following additional amounts are available for the Department of the Interior for the fiscal year:

Permanent appropriations:		
Federal funds (pp. 2335-2338)	$949,821,000	
Trust funds (pp. 2352-2353)	637,990,000	
Appropriations in legislative acts:		
Payments to States from receipts under Mineral Leasing Act, Federal funds (P.L. 100-203) (p. 2511)	8,000,000	
Energy and Water Development Appropriations Bill, 1988: Bureau of Reclamation (pp. 236-242)	956,305,000	
Subtotal, additions		$2,552,116,000

Deduct advance appropriations for fiscal year 1989 and amounts transferred to Department of Agriculture; Department of Education; Department of Energy; Department of Health and Human Services; and General Government totals:

Advance appropriation for fiscal year 1989:		
Department of Energy:		
Clean coal technology (pp. 355-356)	$525,000,000	
Department of Agriculture:		
Forest Service (pp. 351-355)	1,686,320,000	
Department of Education (p. 362)	66,326,000	
Department of Energy (pp. 355-359)	1,538,196,000	
Department of Health and Human Services (pp. 359-361)	1,005,808,000	
General Government:		
Advisory Council on Historic Preservation (p. 365)	1,719,000	
Commission on Fine Arts (p. 365)	443,000	
Franklin Delano Roosevelt Memorial Commission (p. 365)	28,000	
Holocaust Memorial Council (p. 366)	2,171,000	
National Capital Planning Commission (p. 365)	2,948,000	
National Foundation on the Arts and Humanities (pp. 364-365)	334,610,000	
Navajo-Hopi Relocation Commission (p. 362)	25,270,000	
Pennsylvania Avenue Development Corporation (p. 366)	5,516,000	
Smithsonian Institution (pp. 362-363)	271,531,000	
Subtotal, deductions		−5,465,886,000
Grand total, Department of the Interior (net)		[1] 6,913,446,000

[1] The Department of the Interior and Related Agencies Appropriations Bills, 1988 (H.R. 2712) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on page 103, this volume).

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATION BILL, 1988

100th Congress, H.R. 3058

[NOTE.—The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Bill, 1988 (H.R. 3058), was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on July 30, 1987, and passed the House on August 5, 1987. Subsequently, the bill was reported by the Committee on Appropriations of the Senate on October 1, 1987, and passed the Senate, amended on October 14, 1987. The Senate asked for a conference on the bill October 14, 1987, and the House agreed to a conference October 20, 1987. No further conference action occurred on H.R. 3058. Funding of those programs and activities normally included in this regular annual appropriations bill is provided under Sec. 101(h) of Public Law 100-202, approved December 22, 1987, Making Further Continuing Appropriations for fiscal year 1988. (See pp. 371-404 for text of Sec. 101(h) of Public Law 100-202, and pp. 2473-2480 for the related table VIII showing estimates and funding levels by appropriation account).]

LEGISLATIVE HISTORY—H.R. 3058

HOUSE REPORTS: No. 100-256 (Comm. on Appropriations) and No. 100-498 (Comm. of Conference, H.J. Res. 395).
SENATE REPORT No. 100-189 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
July 30, reported in the House.
Aug. 5, considered and passed House.
Oct. 1, reported in the Senate.
Oct. 13 and 14, considered and passed Senate, amended.

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1988 under Sec. 101(h) of Public Law 100-202 for the programs and activities normally funded in this regular annual appropriation bill:

Grand total:	
New budget (obligational) authority	$128,245,381,000
Appropriations, fiscal year 1988	(114,262,733,000)
Appropriations, definite	(114,134,001,000)
Appropriations, indefinite	(128,732,000)
Advance appropriations, fiscal year 1989	(13,750,000,000)
Advance appropriations, fiscal year 1990	(232,648,000)
Limitation on administrative expenses	*(3,598,016,000)*
Limitation on trust fund transfers	*(4,121,161,000)*
Limitation on direct loans	*(63,188,000)*
Total, new budget (obligational) authority, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Bill, 1988	[1]$128,245,381,000

[1] The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Bill, 1988 (H.R. 3058) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note", above).

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1988 provided under Sec. 101(h) of Public Law 100-202, Further Continuing Appropriations, 1988, the following additional amounts are available for the Departments of Labor, Health and Human Services, and Education for the fiscal year:

Permanent appropriations:		
Federal funds (pp. 2333-2334)	$19,415,248,000	
Trust funds (pp. 2351-2354)	385,484,495,000	
Appropriations in legislative acts:		
Federal hospital insurance trust fund, trust funds (P.L. 100-203) (p. 2512)	113,000,000	
Federal old-age and survivors insurance trust fund, trust funds (P.L. 100-203) (p. 2512)	431,000,000	
Federal disability insurance trust fund, trust funds (P.L. 100-203) (p. 2512)	38,000,000	
Unemployment trust fund, trust funds (P.L. 100-203) (p. 2512)	715,000,000	
Advance appropriations for fiscal year 1988 made during previous sessions of Congress:		
99th Cong., 2d session:		
Department of Health and Human Services:		
Health Care Financing Administration: Grants to States for Medicaid (p. 105, 1986-1987 volume)	[1] *(7,100,000,000)*	
Social Security Administration:		
Special benefits for disabled coal miners (p. 106, 1986-1987 volume)	[1] *(252,450,000)*	
Supplemental security income program (p. 107, 1986-1987 volume)	[1] *(2,765,000,000)*	
Assistance payments program (p. 107, 1986-1987 volume)	[1] *(2,293,615,000*	
Child support enforcement (p. 107, 1986-1987 volume)	[1] *(187,000,000)*	
Department of HUD—Independent Agencies Appropriations Bill, 1988: Office of Consumer Affairs (p. 319)	1,670,000	
Department of the Interior and Related Agencies Appropriations Bill, 1988:		
Department of Health and Human Services: Health Resources and Services Administration (pp. 359-361)	1,005,808,000	
Department of Education: Indian Education (p. 362)	66,326,000	
Rural Development, Agriculture, and Related Agencies Appropriation Bill, 1988: Food and Drug Administration (p. 463)	477,566,000	
Subtotal, additions		$407,748,113,000

Deduct advance appropriations for fiscal years 1989 and 1990 and amounts transferred to the General Government and Defense—Civil functions totals:

Advance appropriations for fiscal year 1989:		
Department of Health and Human Services:		
Health Care Financing Administration: Grants to States for Medicaid (p. 383)	$8,000,000,000	
Social Security Administration:		
Special benefits for disabled coal miners (p. 384)	250,000,000	
Supplemental security income program (p. 384)	3,000,000,000	
Family support payments to States (p. 385)	2,500,000,000	
Advance appropriation for fiscal year 1990:		
Corporation for Public Broadcasting (p. 398)	232,648,000	
General Government:		
ACTION (p. 397)	163,085,000	
Federal Mediation and Conciliation Service (p. 398)	24,510,000	
Federal Mine Safety and Health Review Commission (p. 398)	3,906,000	
National Commission on Libraries and Information Science (p. 398)	718,000	
National Council on the Handicapped (p. 398)	892,000	
National Labor Relations Board (p. 399)	133,097,000	
National Mediation Board (p. 399)	7,004,000	
Occupational Safety and Health Review Commission (p. 399)	5,885,000	

[1] Also included under "Permanent appropriations, Federal funds".

General Government—Continued:		
Railroad Retirement Board:		
Dual benefits payment account (p. 399)	$352,323,000	
Federal payment to Railroad Retirement Account (p. 400)	3,100,000	
United States Institute of Peace (p. 401)	4,308,000	
Defense—Civil: Soldiers' and Airmen's Home (pp. 400–401)	51,324,000	
Subtotal, deductions		−$14,732,800,000
Grand total, Departments of Labor, Health and Human Services, and Education		[1] 521,260,694,000

[1] The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Bill, 1988 (H.R. 3058) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on p. 105, this volume).

LEGISLATIVE BRANCH APPROPRIATION BILL, 1988

100th Congress, H.R. 2714

[NOTE.—The Legislative Branch Appropriation Bill, 1988 (H.R. 2714), was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on June 18, 1987, and passed the House on June 29, 1987. Subsequently, the bill was reported by the Committee on Appropriations of the Senate on September 16, 1987, and passed the Senate, amended on September 30, 1987. The Senate asked for a conference on the bill September 30, 1987, and the House agreed to a conference October 15, 1987. No further conference action occurred on H.R. 2714. Funding of those programs and activities normally included in this regular annual appropriations bill is provided under Sec. 101(i) of Public Law 100-202, approved December 22, 1987, Making Further Continuing Appropriations for fiscal year 1988. (See pp. 404-423 for text of Sec. 101(i) of Public Law 100-202, and pp. 2481-2486 for the related table VIII showing estimates and funding levels by appropriation account).]

LEGISLATIVE HISTORY—H.R. 2714

HOUSE REPORTS: No. 100-173 (Comm. on Appropriations) and No. 100-498 (Comm. of Conference, H.J. Res. 395).
SENATE REPORT: No. 100-158 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
June 18, reported in the House.
June 29, considered and passed House.
Sept. 16, reported in the Senate.
Sept. 30, considered and passed Senate, amended.

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1988 under Sec. 101(i) of Public Law 100-202 for the programs and activities normally funded in this regular annual appropriations bill:

Grand total:		
Title I, Congressional Operations	$1,195,253,500	
Reappropriation	(150,000)	
By transfer	*(132,000)*	
Limitation on expenses	*(10,000)*	
Title II, Other Agencies	550,248,000	
Reappropriation	(150,000)	
Total, new budget (obligational) authority, Legislative Branch Appropriation Bill, 1988		[1] $1,745,501,500

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1988 provided under Sec. 101(i) of Public Law 100-202, Further Continuing Appropriations, 1988, the following additional amounts are available for the Legislative Branch for the fiscal year:

Permanent appropriations:		
Federal funds (pp. 2329-2330)	$181,172,000	
Trust funds (p. 2347)	8,201,000	
Subtotal, additions		189,373,000
Grand total, Legislative Branch		[1] 1,934,874,500

[1] The Legislative Branch Appropriation Bill, 1988 (H.R. 2714) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note", above).

MILITARY CONSTRUCTION APPROPRIATION BILL, 1988

100th Congress, H.R. 2906

[NOTE.—The Military Construction Appropriation Bill, 1988 (H.R. 2906), was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on July 9, 1987, and passed the House on July 14, 1987. Subsequently, the bill was reported by the Committee on Appropriations of the Senate on October 16, 1987, and passed the Senate, amended on October 27, 1987. The Senate asked for a conference on the bill October 27, 1987, and the House agreed to a conference November 4, 1987. No further conference action occurred on H.R. 2906. Funding of those programs and activities normally included in this regular annual appropriations bill is provided under Sec. 101(j) of Public Law 100-202, approved December 22, 1987, Making Further Continuing Appropriations for fiscal year 1988. (See pp. 423-434 for text of Sec. 101(j) of Public Law 100-202, and pp. 2487-2488 for the related table VIII showing estimates and funding levels by appropriation account).]

LEGISLATIVE HISTORY—H.R. 2906

HOUSE REPORTS: No. 100-209 (Comm. on Appropriations) and No. 100-498 (Comm. of Conference, H.J. Res. 395).
SENATE REPORT No. 100-200 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
July 9, reported in the House.
July 14, considered and passed House.
Oct. 16, reported in the Senate.
Oct. 23 and 27, considered and passed Senate, amended.

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1988 under Sec. 101(j) of Public Law 100-202 for the programs and activities normally funded in this regular annual appropriations bill:

Grand total:		
Department of Defense:		
Definite appropriations	$1,047,946,000	
Rescissions	−15,200,000	$1,032,746,000
Department of the Army:		
Definite appropriations	2,818,106,000	
Rescissions	−59,400,000	
Portion applied to debt reduction	−2,746,000	2,755,960,000
Department of the Navy:		
Definite appropriations	2,258,990,000	
Rescissions	−36,600,000	
Portion applied to debt reduction	−1,801,000	2,220,589,000
Department of the Air Force:		
Definite appropriations	2,316,138,000	
Rescissions	−45,000,000	
Portion applied to debt reduction	−1,433,000	2,269,705,000
Total, new budget (obligational) authority (all definite appropriations), Military Construction Appropriation Bill, 1988 (net)		[1] 8,279,000,000

[1] The Military Construction Appropriation Bill, 1988 (H.R. 2906), was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note", above).

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATION BILL, 1988

100th Congress, H.R. 3520

[NOTE.—The Rural Development, Agriculture, and Related Agencies Appropriation Bill, 1988 (H.R. 3520), was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on October 20, 1987, and S. 1800 was reported by the Committee on Appropriations of the Senate on October 20, 1987. The bill was not acted on by the full Senate. Funding of those programs and activities normally included in this regular annual appropriations bill is provided under Sec. 101(k) of Public Law 100-202, approved December 22, 1987, Making Further Continuing Appropriations for fiscal year 1988. (See pp. 434-468 for text of Sec. 101(k) of Public Law 100-202, and pp. 2489-2495 for the related table VIII showing estimates and funding levels by appropriation account).]

LEGISLATIVE HISTORY—H.R. 3520 (S. 1800)

HOUSE REPORTS: No. 100-386 (Comm. on Appropriations) and No. 100-498 (Comm. of Conference, H.J. Res. 395).
SENATE REPORT No. 100-203 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 20, reported in the House.
Oct. 20, reported in the Senate.

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1988 under Sec. 101(k) of Public Law 100-202 for the programs and activities normally funded in this regular annual appropriations bill:

Grand total:	
New budget (obligational) authority	$52,355,502,000
By transfer	*(4,441,188,000)*
Loan authorization	*(14,105,801,000)*
Limitation on obligations	*(462,355,000)*
Limitation on administrative expenses	*(102,484,000)*
Total, new budget (obligational) authority, Rural Development, Agriculture, and Related Agencies Appropriation Bill, 1988	[1] $52,355,502,000

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1988 provided under Sec. 101(k) of Public Law 100-202, Further Continuing Appropriations, 1988, the following additional amounts are available for Rural Development and Agriculture for the fiscal year:

Permanent appropriations:	
Federal funds (pp. 2330-2332)	$4,352,120,000
Trust funds (pp. 2348-2349)	382,940,000
Appropriations in legislative acts:	
Agriculture credit insurance fund, Federal funds (P.L. 100-233) (p. 2511)	70,000,000
Rural telephone bank, Federal funds (P.L. 100-203) (p. 2511)	−72,000,000
Commodity Credit Corporation Fund, Federal funds (P.L. 100-203) (p. 2511)	−1,167,000,000
Commodity Credit Corporation Fund, Federal funds (P.L. 100-45) (p. 2511)	−30,000,000

[1] The Rural Development, Agriculture, and Related Agencies Appropriation Bill, 1988 (H.R. 3520) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note", above).

Department of the Interior and Related Agencies Appropriation Bill 1988:		
Forest Service (pp. 351–355)	[1]$1,686,320,000	
Fourth Further Continuing Appropriations, 1988 (Public Law 100–202):		
Agricultural Aid and Trade Missions Act: Agricultural aid and trade missions (pp. 549–554)	200,000	
Subtotal, additions (net)		$5,222,580,000
Deduct amounts transferred to Department of Health and Human Services, and General Government totals:		
Department of Health and Human Services:		
Food and Drug Administration (p. 463)	$477,566,000	
General Government:		
Commodity Futures Trading Commission (p. 464)	32,813,000	
Subtotal, deductions		−510,379,000
Grand total, Rural Development and Agriculture (net)		[2] 57,067,703,000

[1] Includes $4,740,000 in indefinite appropriations.

[2] The Rural Development, Agriculture, and Related Agencies Appropriation Bill, 1988 (H.R. 3520) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on page 113, this volume).

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1988

100th Congress, H.R. 2890

[NOTE.—The Department of Transportation and Related Agencies Appropriation Bill, 1988 (H.R. 2890), was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on July 7, 1987, and passed the House on July 13, 1987. Subsequently, the bill was reported by the Committee on Appropriations of the Senate on October 9, 1987, and passed the Senate, amended on October 29, 1987. The Senate asked for a conference on the bill October 29, 1987, and the House agreed to a conference November 4, 1987. No further conference action occurred on H.R. 2890. Funding of those programs and activities normally included in this regular annual appropriations bill is provided under Sec. 101(l) of Public Law 100-202, approved December 22, 1987, Making Further Continuing Appropriations for fiscal year 1988. (See pp. 468-499 for text of Sec. 101(l) of Public Law 100-202, and pp. 2496-2500 for the related table VIII showing estimates and funding levels by appropriation account).]

LEGISLATIVE HISTORY—H.R. 2890

HOUSE REPORTS: No. 100-202 (Comm. on Appropriations) and No. 100-498 (Comm. of Conference, H.J. Res. 395).
SENATE REPORT No. 100-198 (Comm. on Appropriations).
CONGRESSIONAL RECORD: Vol. 133 (1987):
July 7, reported in the House.
July 13, considered and passed House.
Oct. 9, reported in the Senate.
Oct. 28 and 29, considered and passed Senate, amended.

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1988 under Sec. 101(l) of Public Law 100-202 for the programs and activities normally funded in this regular annual appropriation bill:

Grand total:	
New budget (obligational) authority	$10,623,055,000
By transfer	*(32,897,000)*
Limitation on general operating expenses	*(206,736,000)*
Limitation on administrative expenses	*(2,016,000)*
Limitation on borrowing authority	*(57,000,000)*
Limitation on obligations	*(14,490,455,000)*
Limitation on cumulative obligations	*(4,750,000)*
Limitation on working capital fund	*(127,801,000)*
Limitation on direct loans	*(45,457,000)*
Appropriations to liquidate contract authorizations	*(15,780,400,000)*
Total, new budget (obligational) authority, Department of Transportation and Related Agencies Appropriation Bill, 1988	[1] $10,623,055,000

[1] The Department of Transportation and Related Agencies Appropriation Bill, 1988 (H.R. 2890) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note", above).

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1988 provided under Sec. 101(l) of Public Law 100-202, Further Continuing Appropriations, 1988, the following additional amounts are available for the Department of Transportation for the fiscal year:

Permanent appropriations:		
Federal funds (p. 2339)	$60,837,000	
Trust funds (pp. 2355-2356)	13,448,836,000	
Appropriations in legislative acts:		
Federal-aid highways, trust funds (P.L. 100-17) (p. 2512)	9,604,000,000	
Highway-related safety grants, trust funds (P.L. 100-17) (p. 2512)	10,000,000	
Highway traffic safety grants, trust funds (P.L. 100-17) (p. 2512)	155,000,000	
Discretionary grants, trust funds (P.L. 100-17) (p. 2512)	1,200,000,000	
Grants-in-aid for airports, trust funds (P.L. 100-223) (p. 2512)	1,702,000,000	
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, 1988:		
Maritime Administration (p. 157)	76,463,000	
Subtotal, additions		$26,257,136,000

Deduct amounts for independent agencies transferred to the Department of the Treasury and General Government totals:

Department of the Treasury:		
Rebate of St. Lawrence Seaway Tolls (Harbor Maintenance Trust Fund) (p. 486)	$9,880,000	
General Government:		
Architectural and Transportation Barriers Compliance Board (p. 485)	1,891,000	
Interstate Commerce Commission (p. 485)	44,294,000	
National Transportation Safety Board (p. 485)	24,000,000	
Panama Canal Commission (p. 486)	440,803,000	
Washington Metropolitan Area Transit Authority (p. 486)	49,080,000	
Subtotal, deductions		−569,948,000
Grand total, Department of Transportation		[1] 36,310,243,000

[1] The Department of Transportation and Related Agencies Appropriation Bill, 1988 (H.R. 2890) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on page 115, this volume).

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1988

100th Congress, H.R. 2907

[NOTE.—The Treasury, Postal Service, and General Government Appropriations Bill, 1988 (H.R. 2907), was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on July 9, 1987, and passed the House on July 15, 1987. Subsequently, the bill was reported by the Committee on Appropriations of the Senate on September 17, 1987, and passed the Senate, amended on September 25, 1987. The Senate asked for a conference on the bill September 25, 1987, and the House agreed to a conference October 15, 1987. No further conference action occurred on H.R. 2907. Funding of those programs and activities normally included in this regular annual appropriations bill is provided under Sec. 101(m) of Public Law 100-202, approved December 22, 1987, Making Further Continuing Appropriations for fiscal year 1988. (See pp. 499-537 for text of Sec. 101(m) of Public Law 100-202, and pp. 2501-2503 for the related table VIII showing estimates and funding levels by appropriation account.)]

LEGISLATIVE HISTORY—H.R. 2907

HOUSE REPORTS: No. 100-211 (Comm. on Appropriations) and No. 100-498 (Comm. of Conference, H.J. Res. 395).
SENATE REPORT No. 100-160 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
July 9, reported in the House.
July 15, considered and passed House.
Sept. 17, reported in the Senate.
Sept. 25, considered and passed Senate, amended.

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1988 under Sec. 101(m) of Public Law 100-202 for the programs and activities normally funded in this regular annual appropriations bill:

Grand total:	
Title I, Treasury Department	$7,397,872,000
Title II, Postal Service	517,001,000
Title III, Executive Office of the President	108,150,000
Title IV, Independent Agencies	7,092,676,000
By transfer	*(39,000,000)*
Limitations	*(2,957,998,000)*
Total, new budget (obligational) authority, Treasury, Postal Service, and General Government Appropriations Bill, 1988	[1] $15,115,699,000

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1988 provided under Sec. 101(m) of Public Law 100-202, Further Continuing Appropriations, 1988, the following additional amounts are available for the fiscal year:

Permanent appropriations:	
Federal funds (pp. 2333-2334 and 2340-2342)	$213,983,653,000
Trust funds (pp. 2356-2359)	60,285,292,000
Appropriations in legislative acts:	
Other interest on the public debt, Federal funds (P.L. 100-203) (p. 2511)	3,000,000
Other interest on the public debt, Federal funds (P.L. 100-136) (p. 2511)	−3,000,000

[1] The Treasury, Postal Service, and General Government Appropriations Bill, 1988 (H.R. 2907) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note", above).

Appropriations in legislative acts—Continued:	
Claims, judgments, and relief acts, Federal funds (P.L. 100–153) (p. 2511)	$1,000,000
Postal Service, Federal funds (P.L. 100–203) (p. 2511)	−820,000,000
Loan Guarantee Revolving Fund, Federal funds (P.L. 100–203) (p. 2511)	−680,000,000
Loan Guarantee Revolving Fund, Federal funds (P.L. 100–136) (p. 2511)	680,000,000
Loan Guarantee Revolving Fund, Federal funds (P.L. 100–198) (p. 2511)	−53,000,000
National insurance development fund, Federal funds (P.L. 100–242) (p. 2511)	−1,000,000
Business loan and investment fund, Federal funds (P.L. 100–72) (p. 2511)	−43,000,000
Civil service retirement and disability fund, trust funds (P.L. 100–203) (p. 2512)	360,000,000
Rail industry pension fund, trust funds (P.L. 100–203) (p. 2512)	144,000,000
Technical corrections to Federal employees' retirement system, trust funds (P.L. 100–20) (p. 2512)	10,000,000
Advance appropriations for fiscal year 1988 made during previous sessions of Congress:	
99th Cong., 1st session:	
Corporation for Public Broadcasting (p. 246, 1985–1986 volume)	[1] *(214,000,000)*
99th Cong., 2d session:	
James Madison Memorial Fellowship (p. 266, 1986–1987 volume)	[1] *(10,000,000)*
Constitutional Law Resource Centers (p. 267, 1986–1987 volume)	[1] *(3,200,000)*
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, 1988:	
Arms Control and Disarmament Agency (p. 158)	30,100,000
Board for International Broadcasting (p. 158)	219,000,000
Christopher Columbus Quincentenary Jubilee Commission (p. 158)	212,000
Commission on the Bicentennial of the United States Constitution (pp. 158–159)	21,000,000
Commission on Civil Rights (p. 159)	5,707,000
Commission on Security and Cooperation in Europe (p. 160)	701,000
Commission for the Study of International Migration and Cooperative Economic Development (p. 160)	870,000
Equal Employment Opportunity Commission (p. 160)	179,812,000
Federal Communications Commission (pp. 160–161)	99,613,000
Federal Maritime Commission (p. 161)	13,585,000
Federal Trade Commission (p. 161)	66,243,000
International Trade Commission (p. 161)	34,750,000
Japan-United States Friendship Trust Fund (pp. 161–162)	1,200,000
Legal Services Corporation (p. 162)	305,500,000
Marine Mammal Commission (p. 163)	953,000
Office of the United States Trade Representative (p. 163)	15,229,000
Securities and Exchange Commission (p. 163)	135,221,000
Small Business Administration (pp. 163–164)	414,985,000
State Justice Institute (p. 164)	10,980,000
United States Information Agency (pp. 164–167)	820,021,000
United States Sentencing Commission (p. 155)	5,129,000
Department of Defense Appropriation Bill, 1988:	
CIA Retirement and Disability System Fund (p. 189)	134,700,000
Intelligence Community Staff (p. 189)	23,057,000
Energy and Water Development Appropriation Bill, 1988:	
Appalachian Regional Commission (p. 250)	107,000,000
Delaware River Basin Commission (p. 250)	466,000
Interstate Commission on the Potomac River Basin (p. 250)	379,000
Nuclear Regulatory Commission (pp. 250–251)	196,400,000
Susquehanna River Basin Commission (p. 251)	446,000
Tennessee Valley Authority (pp. 251–252)	103,000,000
Department of HUD—Independent Agencies Appropriation Bill, 1988:	
American Battle Monuments Commission (pp. 312–314)	12,408,000
Consumer Products Safety Commission (p. 314)	32,696,000
Environmental Protection Agency (pp. 314–317)	5,027,442,000
Executive Office of the President (pp. 317–318)	2,714,000
Federal Emergency Management Agency (pp. 318–319)	632,337,000
General Services Administration—Consumer Information Center (p. 319)	1,279,000

[1] Also included under "Permanent appropriations, Federal funds".

Department of HUD—Independent Agencies Appropriation Bill, 1988—Continued:		
National Aeronautics and Space Administration (pp. 319-321)	$8,856,461,000	
National Science Foundation (pp. 321-322)	1,717,000,000	
Neighborhood Reinvestment Corporation (p. 322)	18,720,000	
Selective Service System (p. 322)	25,459,000	
Veterans Administration (pp. 323-327)	27,024,784,000	
Department of the Interior and Related Agencies Appropriations Bill, 1988:		
Advisory Council on Historic Preservation (p. 365)	1,719,000	
Commission of Fine Arts (p. 365)	443,000	
Franklin Delano Roosevelt Memorial Commission (p. 365)	28,000	
Holocaust Memorial Council (p. 366)	2,171,000	
National Capital Planning Commission (p. 365)	2,948,000	
National Foundation on the Arts and Humanities (pp. 364-365)	334,610,000	
Navajo-Hopi Relocation Commission (p. 362)	25,270,000	
Pennsylvania Avenue Development Corporation (p. 366)	5,516,000	
Smithsonian Institution (pp. 362-363)	271,531,000	
Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Bill, 1988:		
ACTION (p. 397)	163,085,000	
Corporation for Public Broadcasting (p. 398) $232,648,000 for fiscal year 1990	.....	
Federal Mediation and Conciliation Service (p. 398)	24,510,000	
Federal Mine Safety and Health Review Commission (p. 398)	3,906,000	
National Commission on Libraries and Information Science (p. 398)	718,000	
National Council on the Handicapped (p. 398)	892,000	
National Labor Relations Board (p. 399)	133,097,000	
National Mediation Board (p. 399)	7,004,000	
Occupational Safety and Health Review Commission (p. 399)	5,885,000	
Railroad Retirement Board:		
Dual benefits payments account (p. 399)	352,323,000	
Federal payment to Railroad Retirement Account (p. 400)	3,100,000	
United States Institute of Peace (p. 401)	4,398,000	
Rural Development, Agriculture, and Related Agencies Appropriation Bill, 1988:		
Commodity Futures Trading Commission (p. 464)	32,813,000	
Department of Transportation and Related Agencies Appropriation Bill, 1988:		
Architectural and Transportation Barriers Compliance Board (p. 485)	1,891,000	
Interstate Commerce Commission (p. 485)	44,294,000	
National Transportation Safety Board (p. 485)	24,000,000	
Panama Canal Commission (p. 486)	440,803,000	
Washington Metropolitan Area Transit Authority (p. 486)	49,080,000	
Department of the Treasury:		
Rebate of St. Lawrence Seaway Tolls (Harbor Maintenance Trust Fund) (p. 486)	9,880,000	
Subtotal, additions (net)		$322,110,329,000
Grand total, Treasury, Postal Service, and General Government (net)		[1] 337,226,028,000

[1] The Treasury, Postal Service, and General Government Appropriations Bill, 1988 (H.R. 2907) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on page 117, this volume).

CONTINUING APPROPRIATIONS, 1988

Public Law 100-120

100th Congress, H.J. Res. 362

September 30, 1987

JOINT RESOLUTION

Making continuing appropriations for the fiscal year 1988, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1988, and for other purposes, namely:

SEC. 101. (a)(1) Such amounts as may be necessary for programs, projects, and activities which were conducted in the fiscal year 1987, under the current terms and conditions and at a rate for operations not in excess of the current rate, for which provision was made in the following and subsequent appropriations Acts:

The Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, and section 1241(a)(1) of Public Law 99-198;

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1987, notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Educational Exchange Act of 1948, as amended;

The Department of Defense Appropriations Act, 1987, notwithstanding section 502(a)(1) of the National Security Act of 1947;

The District of Columbia Appropriations Act, 1987;

The Energy and Water Development Appropriations Act, 1987;

The Foreign Assistance and Related Programs Appropriations Act, 1987, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956: *Provided,* That the rate for operations shall not be in excess of the current rate or the rate provided for in the budget estimate, whichever is lower;

The Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1987;

The Department of the Interior and Related Agencies Appropriations Act, 1987;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, and section 101(n) of Public Laws 99-500 and 99-591;

The Legislative Branch Appropriations Act, 1987;

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The Military Construction Appropriations Act, 1987, except for section 206 of such Act: *Provided*, That the authority available as of September 30, 1987, shall be continued to allow the obligation and expenditure of previously appropriated funds in section 206 for supporting, monitoring, and managing the activities provided for under section 206 in fiscal year 1987: *Provided further*, That in order to strengthen and continue the peace process in Central America, not to exceed the current rate of $2,650,000 per month shall be available only for humanitarian assistance and its support, management, and monitoring in accordance with the provisions of title II of the Military Construction Appropriations Act, 1987;

The Department of Transportation and Related Agencies Appropriations Act, 1987; and

The Department of Treasury, Postal Service, and General Government Appropriations Act, 1987.

(2) No appropriation or funds made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1987.

(3) No appropriation or funds made available or authority granted pursuant to this subsection for the Department of Defense shall be used for new production of items not funded for production in fiscal year 1987 or prior years, for the increase in production rates above those sustained with fiscal year 1987 funds, or to initiate, resume or continue any project, activity, operation or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P–1 line item in a budget activity within an appropriation account and an R–1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1987: *Provided*, That no appropriation or funds made available or authority granted pursuant to this subsection for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

SEC. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) November 10, 1987, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 105. No provision in any appropriations Act for the fiscal year 1987 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

SEC. 106. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

Approved September 30, 1987.

LEGISLATIVE HISTORY—H.J. Res. 362

HOUSE REPORT No. 100-306 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 17, reported in the House.
Sept. 23, considered and passed House.
Sept. 25, considered and passed Senate.

FURTHER CONTINUING APPROPRIATIONS, 1988

Public Law 100-162

100th Congress, H.J. Res. 394

November 10, 1987

JOINT RESOLUTION

Making further continuing appropriations for the fiscal year 1988, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(c) of the joint resolution of September 30, 1987 (Public Law 100-120), is hereby amended by striking out "November 10, 1987" and inserting in lieu thereof "December 16, 1987".

Approved November 10, 1987.

LEGISLATIVE HISTORY—H.J. Res. 394

HOUSE REPORT No. 100-414 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 29, reported in the House.
Nov. 5, considered and passed House.
Nov. 6, considered and passed Senate.

SECOND FURTHER CONTINUING APPROPRIATIONS, 1988

Public Law 100–193

100th Congress, H.J. Res. 425

December 16, 1987

JOINT RESOLUTION

Making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(c) of Public Law 100–120, as amended by Public Law 100–162, is further amended by striking out "December 16, 1987" and inserting in lieu thereof "December 18, 1987".

Approved December 16, 1987.

LEGISLATIVE HISTORY—H.J. Res. 425

CONGRESSIONAL RECORD, Vol. 133 (1987):
Dec. 16, considered and passed House and Senate.

THIRD FURTHER CONTINUING APPROPRIATIONS, 1988

Public Law 100-197

100th Congress, H.J. Res. 431

December 20, 1987

JOINT RESOLUTION

Making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(c) of Public Law 100-120, as amended by Public Law 100-162 and Public Law 100-193 is further amended by striking out "December 18, 1987" and inserting in lieu thereof "December 21, 1987".

Approved December 20, 1987.

LEGISLATIVE HISTORY—H.J. Res. 431

CONGRESSIONAL RECORD, Vol. 133 (1987):
Dec. 20, considered and passed House and Senate.

FOURTH FURTHER CONTINUING APPROPRIATIONS, 1988

Public Law 100-202

100th Congress, H.J. Res. 395

December 22, 1987

[NOTE.—This joint resolution provides budget authority for thirteen annual appropriation bills which were not enacted into law. These thirteen bills are: (1) Commerce, Justice, State, and the Judiciary, 1988 (H.R. 2763); (2) Defense, 1988 (H.R. 3576); (3) District of Columbia, 1988 (H.R. 2713); (4) Energy and Water Development, 1988 (H.R. 2700; (5) Foreign Operations, 1988 (H.R. 3186); (6) Housing and Urban Development, 1988 (H.R. 2783); (7) Interior, 1988 (H.R. 2712); (8) Labor, Health and Human Services, and Education, 1988 (H.R. 3058); (9) Legislative Branch, 1988 (H.R. 2714); (10) Military Construction, 1988 (H.R. 2906); (11) Rural Development and Agriculture, 1988 (H.R. 3520); (12) Transportation, 1988 (H.R. 2890); and (13) Treasury, Postal Service, and General Government, 1988 (H.R. 2907). Although budget authority for these bills is provided in this joint resolution, a separate modified bill and table VIII for each are included where they would normally appear in this volume.]

JOINT RESOLUTION

Making further continuing appropriations for the fiscal year 1988, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

SECTION. 1. Because the spending levels included in this Resolution achieve the deficit reduction targets of the Economic Summit, sequestration is no longer necessary. Therefore:

(a) Upon the enactment of this Resolution the orders issued by the President on October 20, 1987, and November 20, 1987, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, are hereby rescinded.

(b) Any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequesterable resource that has been reduced or sequestered by such orders is hereby restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

ENROLLMENT ERRATA

Pursuant to the provisions of section 101(n) of this joint resolution (appearing on pp. 537-538), changes made are indicated by footnote on the original enrolled copy of this joint resolution and the printed version referred to as the "Slip law" of Public Law 100-202.

The words "Government", when referring to the Government of the United States will be capitalized, "Act", if referring to an action of the Congress of the United States, will be capitalized, "State", when referring to a State of the United States will be capitalized, "title" and "section" will be lower case, when referring to the United States Code or a Federal law. The capitalization of the foregoing words may be changed, and not footnoted.

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1988, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

(Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988)

AN ACT

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce, including not to exceed $2,000 for official entertainment, $39,204,000: *Provided,* That $250,000 for establishing a clearinghouse on State and local initiatives on productivity, technology and innovation shall be available subject to enactment of authorizing legislation. $39,204,000

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $94,835,000. 94,835,000

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $346,444,000. 346,444,000

[*Total, Bureau of the Census, $441,279,000.*]

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs, $32,079,000. 32,079,000

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $182,028,000 of which: 182,028,000

(a) $3,000,000 is for a grant to the Institute for Technology Development, Jackson, Mississippi;

(b) $2,500,000 is for a grant to the University of Bridgeport, in Bridgeport, Connecticut to assist in the construction and instrumentation of the Connecticut Technology Institute;

(c) $1,000,000 is for a grant to the city of Worcester, Massachusetts and the Worcester Business Development Corporation to assist in the construction of a biotechnology research park in Worcester, Massachusetts: *Provided,* That notwithstanding any other provision of law or regulation, including title I of the Public Works and Economic Development Act of 1965, as amended, except the following provisions; section 712 of said Act, the Secretary of Commerce is hereby directed to obligate said funds as a direct grant without any further requirement or delay upon enactment of this legislation; and

(d) $250,000 shall be obligated for the Center for International Trade Development at Oklahoma State University:

Provided, That during fiscal year 1988 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further,* That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration. *$150,000,000 (limitation on loan guarantees)*

FINANCIAL AND TECHNICAL ASSISTANCE

(RESCISSION)

Of available funds under this head, $1,541,067 are rescinded. −1,541,067 *(rescission)*

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $24,742,000: *Provided,* That the full time permanent positions for the Economic Development Administration shall not be fewer than 360 and that the number of Deputy Assistant Secretary positions shall not be greater than four: *Provided further,* That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1988, and such positions shall be maintained in the various States within the approved organizational structure in place on December 1, 1987, and when possible, with those employees who filled those positions on that date. 24,742,000

[*Total, Economic Development Administration (net), $205,228,933,000.*]

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce, including trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of tem-

porary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $253,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use abroad and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $161,432,000 to remain available until expended, of which $6,791,000 is for the Office of Textiles and Apparels, including $3,360,000 for a grant to the Tailored Clothing Technology Corporation and of which $3,840,000 is for support costs for a new materials center in Ames, Iowa: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: *Provided further,* That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed eight. $161,432,000

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $5,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $37,465,000, to remain available until expended: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities. 37,465,000

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $39,705,000, of which $25,463,000 shall remain available until expended: *Provided,* That not to exceed $14,242,000 shall be available for program management for fiscal year 1988: *Provided further,* That none of the funds appropriated in this paragraph or in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor 39,705,000

shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such action in accordance with the Committees' reprogramming procedures.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $8,000 for representation expenses abroad; $11,724,000. $11,724,000

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 399 commissioned officers on the active list; construction of facilities, including initial equipment; alteration, modernization, and relocation of facilities; and acquisition of land for facilities; $1,110,015,000, to remain available until expended; and in addition, $28,291,000 shall be derived from the Airport and Airways Trust Fund; and in addition, $44,397,000 shall be derived by transfer from the Fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $15,248,000 shall be derived by transfer from the Coastal Energy Impact Fund: *Provided,* That grants to States pursuant to section 306 and section 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: *Provided further* That $376,000 of the funds made available under this paragraph shall be used for a semi-tropical research facility located at Key Largo, Florida: *Provided further,* That of the funds appropriated in this paragraph, necessary funds shall be used to fill and maintain a staff of three persons, as National Oceanic and Atmospheric Administration personnel, to work on contracts and purchase orders at the National Data Buoy Center in Bay St. Louis, Mississippi, and report to the Director of the National Data Buoy Center in the same manner and extent that such procurement functions were performed at Bay St. Louis prior to June 26, 1983, except that they may provide procurement assistance to other Department of Commerce activities pursuant to ordinary interagency agreements. Where practicable, these positions shall be filled by the employees who performed such functions prior to June 26, 1983.

1,110,015,000
28,291,000
44,397,000
(by transfer)
15,248,000
(by transfer)

No monies appropriated by this Act shall be used by the Department of Commerce prior to February 1, 1988, to initiate proceedings under section 312 (d) and (e) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1458) against the State of California's Coastal

Management Program. Further, the Secretary of Commerce is directed to release to the California Coastal Commission the fiscal year 1987 administrative grant for operations and equipment authorized under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455).

Notwithstanding the provisions of Public Law 100-71, any funds appropriated in prior Acts and unobligated for the commercialization of the Land Remote Sensing Satellite System (LANDSAT) as of the date of enactment of House Joint Resolution 395, shall be available to restore the reductions in other programs funded in "Operations, Research, and Facilities" which were made pursuant to the conference report and accompanying statement of the managers on House Joint Resolution 395, if a new contract has not been signed by April 1, 1988 for commercialization of the Land Remote Sensing Satellite System (LANDSAT): *Provided,* That such contract shall be subject to the approval of the Appropriations Committees of the Congress pursuant to the reprogramming provisions of section 608 of this Act.

[*Total, operations, research, and facilities, $1,138,306,000.*]

FISHERIES PROMOTIONAL FUND

Of the funds deposited in the Fisheries Promotional Fund pursuant to section 209 of the Fish and Seafood Promotion Act of 1986, $2,625,000 shall be made available as authorized by said Act, to remain available until expended, and $375,000 shall be transferred to the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries". *$2,625,000 (availability of funds)*

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $719,000, to be derived from receipts collected pursuant to that Act, to remain available until expended. 719,000

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $1,919,000, to remain available until expended. 1,919,000

[*Total, National Oceanic and Atmospheric Administration, $1,140,944,000.*]

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office, including defense of suits instituted against the Commissioner of Patents and Trademarks, $120,000,000 and, in addition, such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, to remain available until expended. 120,000,000

NATIONAL BUREAU OF STANDARDS

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards, $144,783,000, to remain available until expended, of which not to exceed $4,920,000 may be transferred to the "Working Capital Fund", and of which not to exceed $1,000,000 shall be available for construction of research facilities. 144,783,000

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $13,814,000, of which $700,000 shall remain available until expended. $13,814,000

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $21,290,000, to remain available until expended: *Provided,* That not to exceed $1,200,000 shall be available for program management as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further,* That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year: *Provided further,* That notwithstanding sections 391 and 392 of the Communications Act, as amended, up to $1,700,000 shall be available for the establishment and administration of the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT). 21,290,000

[*Total, National Telecommunications and Information Administration, $35,104,000.*]

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds available to the Department of Commerce shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding 31 U.S.C. 3324, may be used for advance payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations to the Department of Commerce which are available for salaries and expenses shall be available for hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 103. No funds in this title shall be used to sell to private interests, except with the consent of the borrower, or contract with private interests to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974.

SEC. 104. During the current fiscal year, the National Bureau of Standards is authorized to accept contributions of funds, to remain available until expended, from any public or private source to construct a facility for cold neutron research on materials, notwithstanding the limitations contained in 15 U.S.C. 278d.

SEC. 105. In procuring information processing and telecommunications services of the National Oceanic and Atmospheric Administration for the Advanced Weather Interactive Processing System, the Secretary of Commerce may provide, in the contract or contracts for such services, for the payment for contingent liability of the Federal Government which may accrue in the event that the Government decides to terminate the contract before the expiration of the multi-year contract period. Such contract or contracts for such services shall limit the payments which the Federal Government is allowed to make under such contract or contracts to amounts provided in advance in appropriation Acts.

SEC. 106. Notwithstanding any other provision of law, including section 257(c) of the Trade Act of 1974, as amended, and section 203 of the Public Works and Economic Development Act of 1965, as amended, principal and interest repayments from loans, proceeds from the sale of loan assets or collateral, and other receipts arising out of transactions entered into pursuant to title II, chapter 3 of the Trade Act of 1974 shall be deposited into the economic development revolving fund established under section 203 of the Public Works and Economic Development Act of 1965 beginning October 1, 1987: *Provided,* That payments of obligations in connection with loans guaranteed under the authority of the Trade Act of 1974 or the Public Works and Economic Development Act of 1965, and any related expenses, shall be made from funds available in the economic development revolving fund: *Provided further,* That deposits to the economic development revolving fund of amounts appropriated for, or received in connection with, activities authorized under the Trade Act of 1974, made prior to October 1, 1987, shall be deemed valid deposits.

SEC. 107. Notwithstanding any other provision of law, the Secretary of Commerce is authorized to negotiate and conclude an agreement to exchange properties with the necessary private and public parties for the purpose of expanding the National Oceanic and Atmospheric Administration marine facility at Pascagoula, Mississippi.

SEC. 108. In order to maintain overseas program activity for the Department of Commerce provided for each fiscal year at the appropriated program levels, the Secretary may establish Buying Power Maintenance accounts for the International Trade Administration, the Export Administration, and the United States Travel and Tourism Administration. There are authorized to be appropriated for such accounts such sums as may be necessary to offset adverse fluctuations in foreign currency exchange rates, or unbudgeted overseas wage and price changes. To eliminate substantial gains to the approved levels of overseas operations, the Secretary shall transfer to a Buying Power Maintenance account such amounts determined to be excessive to the needs of the approved level of overseas operations because of fluctuations in foreign currency exchange rates or changes in unbudgeted overseas wages and prices, including unobligated balances associated with the overseas program. To offset adverse fluctuations in foreign currency exchange rates or unbudgeted overseas wage and price changes, the Secretary may transfer from a Buying Power Maintenance account such amounts determined to be necessary to maintain the approved level of overseas operations under an appropriation account. Funds transferred by the Secretary to or from a Buying Power Maintenance account to another account shall be merged with and be available for the same purpose, and for the same time period, as the funds in the account into which transferred. Any restriction contained in an appropriation Act or other provision of law limiting the amounts available for the Department of Commerce that may be obligated or expended shall be deemed to be adjusted to the extent necessary to offset the net effect of fluctuations in foreign currency exchange rates or unbudgeted overseas wage and price changes in order to maintain approved levels.

This title may be cited as the "Department of Commerce Appropriation Act, 1988".

[*Total, title I, Department of Commerce:*

[*New budget (obligational) authority (net)*	*$2,408,947,933.*]
[*Appropriations*	*2,410,489,000.*]
[*Rescission*	*−1,541,067.*]
[*By transfer*	*59,645,000.*]
[*Limitation on loan guarantees*	*150,000,000.*]
[*Availability of funds*	*2,625,000.*]

TITLE II—DEPARTMENT OF JUSTICE

General Administration

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $88,360,000. $88,360,000

WORKING CAPITAL FUND

For additional capital, not to exceed $4,000,000, to remain available until expended, to be derived from current operating income. *4,000,000 (by transfer)*

United States Parole Commission

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $11,665,000. 11,665,000

Legal Activities

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $237,209,000, of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1989: *Provided,* That of the funds available in this appropriation, not to exceed $5,000,000 shall be available for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through Salaries and expenses, General Administration, to remain available until expended: *Provided further,* That of the funds appropriated to the Department of Justice in this Act, not to exceed $1,000,000 may be transferred to this appropriation to pay expenses related to the activities of any Independent Counsel appointed pursuant to 28 U.S.C. 591, et seq., upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate and approval under said Committees' policies concerning the reprogramming of funds: *Provided further,* That a permanent indefinite appropriation is established within the Department of Justice to pay all necessary expenses of investigations and prosecutions by independent counsel appointed pursuant to the provisions of 28 U.S.C. 591 et seq. or other law: *Provided further,* That the Comptroller General shall perform semiannual financial reviews of expenditures from the Independent Counsel permanent indefinite appropriation, and report their findings to the Committees on Appropriations of the House and Senate: *Provided further,* That not to exceed $5,000,000 may be transferred to "Salaries and expenses, general legal activities" from "Fees and expenses of witnesses": *Provided further,* That the Chief, U.S. National Central Bureau, INTERPOL, may establish and collect fees to process name checks and background records for noncriminal employment, licensing, and humanitarian purposes and, notwithstanding the provisions of 31 U.S.C. 3302, credit not more than $150,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services. 237,209,000

7,000,000 *(permanent indefinite)*

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $44,937,000. $44,937,000

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, $380,339,000. 380,339,000

UNITED STATES TRUSTEES SYSTEM FUND

For the necessary expenses of the United States Trustees Program, $29,370,000, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554): *Provided,* That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors: *Provided further,* That the Attorney General may credit to this appropriation not more than $18,000,000 of fees available pursuant to 28 U.S.C. 589(a). 29,370,000

18,000,000 *(by fees)*

[*Total, United States Trustees System Fund, $47,370,000.*]

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109; allowances and benefits similar to those allowed under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens; $500,000. 500,000

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft; $183,168,000: *Provided,* That notwithstanding the provisions of title 31 U.S.C. 3302, the Director of the United States Marshals Service may collect fees and expenses for the service of civil process, including: complaints, summonses, subpoenas and similar process; and seizures, levies, and sales associated with judicial orders of execution; and credit not to exceed $1,000,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services. 183,168,000

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, $73,746,000, which shall remain available until expended; of which not to exceed $5,000,000 shall be available under the Cooperative Agreement Program for the purposes of renovating, constructing, and equipping State and local correctional facilities: *Provided,* That amounts made available for constructing any local correctional facility shall not exceed the cost of constructing space for the average Federal prisoner population to be housed in the facility, or 73,746,000

in other facilities in the same correctional system, as projected by the Attorney General: *Provided further*, That following agreement on or completion of any federally assisted correctional facility construction, the availability of the space acquired for Federal prisoners with these Federal funds shall be assured and the per diem rate charged for housing Federal prisoners in the assured space shall not exceed operating costs for the period of time specified in the cooperative agreement.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses and for per diems in lieu of subsistence, as authorized by law, including advances; $53,015,000, to remain available until expended, of which not to exceed $1,350,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites. $53,015,000

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $27,858,000, of which not to exceed $20,667,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided*, That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act. 27,858,000

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524, as amended by the Comprehensive Forfeiture Act of 1984 and the Anti-Drug Abuse Act of 1986, such sums as may be necessary to be derived from the Department of Justice Assets Forfeiture Fund: *Provided*, That not to exceed 50 per centum of total amounts available for appropriation in fiscal year 1988 from the Department of Justice Assets Forfeiture Fund shall be obligated during fiscal year 1988 for payments pursuant to section 524(c)(1) of title 28, United States Code: *Provided further*, That such limitation shall not apply to funds transferred pursuant to section 210 of this Act. 86,500,000 *(current indefinite)*

[*Total, Legal Activities, $1,141,642,000.*]

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,000 passenger motor vehicles of which 1,650 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,388,492,000, of which not to exceed $10,000,000 1,388,492,000

for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1989; of which not to exceed $3,000,000 for research related to investigative activities shall remain available until expended; of which not to exceed $13,000,000 for the construction of the Engineering Research Facility shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism: *Provided,* That the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further,* That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further,* That not to exceed $8,000,000 for the expansion and renovation of the New York field office shall remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; purchase of not to exceed 525 passenger motor vehicles of which 489 are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $494,076,000, of which not to exceed $1,200,000 for research shall remain available until expended; not to exceed $1,700,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, and not to exceed $2,000,000 for technical equipment shall remain available until September 30, 1989. $494,076,000

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed 1,670, of which 490 shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $741,114,000, of which not to exceed $400,000 for research and $35,000,000 for construction shall remain available until expended: *Provided,* That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 except in such instances when the Commissioner makes a determination that this restriction is impossible to implement: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That none of the funds 741,114,000

available to the Immigration and Naturalization Service shall be available to administer or implement a nationwide employer telephone verification system unless the Commissioner of Immigration and Naturalization procures such system through sealed bid or competitive proposal procedures, except that this proviso shall not affect the pilot project directed in section 101(d)(4) of the Immigration Reform and Control Act of 1986, Public Law 99-603: *Provided further,* That effective February 28, 1988, none of the funds appropriated herein shall be available to detain aliens convicted of a felony under State or Federal law at the Krome processing center unless such center has been designated a security level 3 or higher level correctional facility.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 142 of which 106 are for replacement only) and hire of law enforcement and passenger motor vehicles; $719,814,000: *Provided,* That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year. $719,814,000

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351-4353 of title 18, United States Code, which established a National Institute of Corrections, $9,590,000, to remain available until expended. 9,590,000

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $201,676,000 to remain available until expended: *Provided,* That labor of United States prisoners may be used for work performed under this appropriation. 201,676,000

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE AND VOCATIONAL EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $2,347,000 of the funds of the corporation shall be available for its administrative expenses, and not to exceed $7,571,000 for the expenses of vocational training of prisoners, both amounts to be available for services as authorized by 5 U.S.C. 3109, and to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

$2,347,000 (limitation on administrative expenses)
7,571,000 (limitation on administrative expenses)

[*Total, Federal Prison System, $931,080,000.*]

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Justice Assistance Act of 1984, Runaway Youth and Missing Children Act Amendments of 1984, and the Missing Children Assistance Act including salaries and expenses in connection therewith, $87,383,000 to remain available until expended, of which $5,000,000 is provided for programs authorized under part E of the Justice Assistance Act of 1984, notwithstanding the provisions of section 407 of such Act, including $1,000,000 for a grant to assist in the construction of a consolidated judicial center in Owensboro, Kentucky, and including $1,025,000 for a grant to the town of Alderson, West Virginia, to assist in the expansion of the municipal water treatment system serving the Federal Correctional Institution at Alderson, West Virginia: *Provided,* That of the unobligated funds previously appropriated for the Juvenile Justice and Delinquency Prevention Act which are subject to provisions of sections 222(b), 223(d), and 228(e) of title II of such Act, $3,000,000 to remain available until expended, shall be made available for programs authorized by part E of the Justice Assistance Act of 1984, notwithstanding the provisions of section 407 of such Act. In addition, for grants as authorized by the State and Local Law Enforcement Assistance Act of 1986 (Public Law 99-570, 100 Stat. 3207-42 to 3207-48), including salaries and expenses in connection therewith, $70,000,000 to remain available until expended: *Provided further,* That the Director, Bureau of Justice Assistance may increase the limitation, not to exceed 20 per centum, on administrative costs pursuant to 42 U.S.C. 3796n upon notification to the Director by States unable to comply with the limitation. In addition, for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, $66,692,000 to remain available until expended, of which not less than $3,000,000 shall be allotted under subpart II of part B of the Act to assist those States deemed not in substantial compliance with the jail removal mandate found in section 224(a)(14) of the Act. In addition, $5,000,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1987 through September 30, 1988, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: *Provided further,*

87,383,000

70,000,000

66,692,000

5,000,000

That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1988, a listing of names of such Mariel Cubans incarcerated in their respective facilities: *Provided further*, That the Attorney General, not later than April 1, 1988, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further*, That the amount of reimbursements per prisoner per annum shall not exceed $12,000.

[*Total, Office of Justice Programs, $229,075,000.*]

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed $75,000 from funds appropriated to the Department of Justice in this title shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 202. Notwithstanding any other provision of law, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.

SEC. 203. Appropriations for "Salaries and expenses, General Administration", "Salaries and expenses, United States Marshals Service", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Drug Enforcement Administration", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Federal Prison System", shall be available for uniforms and allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 204. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) With respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1988, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1988, may be used to establish or to acquire proprietary corporations or business entities as part of

an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1988, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1988—

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operations, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are conducted, or

(ii) covert activities are concluded, whichever, occurs later,

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operations" and "undercover operation" means any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

SEC. 205. None of the funds appropriated or made available by this Act shall be used prior to October 1, 1988, to issue or implement any final rule in the rulemaking proceeding commenced August 8, 1986 (51 Fed. Reg. 28576-28589).

SEC. 206. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 207. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 208. Nothing in the preceding section shall remove the obligation of the director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided,* That nothing in this section in any way diminishes the effect of section 207 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 209. Notwithstanding subsections (c) and (d) of section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633), the Administrator of the Office of Juvenile Justice and Delinquency Prevention may not—

(1) terminate any State's eligibility for funding under subpart I of part B of title II of such Act, or

(2) determine that the State's plan fails to meet the requirements of such section,

for fiscal year 1988 because of the failure of such State to comply with the requirements of section 223(a)(14) of such Act before such fiscal year.

SEC. 210. (a) Section 524(c)(1) of title 28 of the United States Code is amended by deleting "and" at the end of subparagraph (F), by striking out the period at the end of (G) and inserting in lieu thereof "; and" and, by inserting the following new subparagraph:

"(H) after all reimbursements and program-related expenses have been met at the end of each fiscal year, the Attorney General may transfer deposits from the Assets Forfeiture Fund to the Building and Facilities account of the Federal prison system for the construction of correctional institutions.".

(b) Amounts proposed for transfer pursuant to subsection (a) shall be transferred only upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate and approval under said Committees' policies concerning the reprogramming of funds.

SEC. 211. Section 210(d) of the Immigration and Nationality Act is amended by inserting the following new paragraph:

"(3) No application fees collected by the Immigration and Naturalization Service (INS) pursuant to section 210(d) of the Immigration and Nationality Act (INA) may be used by the INS to offset the costs of the special agricultural worker legalization program until the INS implements the program consistent with the statutory mandate as follows:

"(A) During the application period as defined in section 210(a)(1)(A) of the INA the INS may grant temporary admission to the United States, work authorization, and provide an 'employment authorized' endorsement or other appropriate work permit to any alien who presents a preliminary application for adjustment of status under subsection (a) at a designated port of entry on the southern land border. An alien who does not enter through a port of entry is subject to deportation and removal as otherwise provided in the INA.

"(B) During the application period as defined in section 210(a)(B)(1)(B) of the INA any alien who has filed an application for adjustment of status within the United States as provided in section 210(b)(1)(A) pursuant to the provision of 8 CFR section 210.1(j) is subject to paragraph (2) of this subsection.

"(C) A preliminary application is defined as a fully completed and signed application with fee and photographs which contains specific information concerning the performance of qualifying employment in the United States and the documentary evidence which the applicant intends to submit as proof of such

employment. The applicant must be otherwise admissible to the United States and must establish to the satisfaction of the examining officer during an interview that his or her claim to eligibility for special agriculture worker status is credible.".

This title may be cited as the "Department of Justice Appropriation Act, 1988".

[*Total, title II, Department of Justice:*
[*New budget (obligational) authority* ..... *$5,025,504,000.*]
[*Definite* ..... *4,932,004,000.*]
[*Permanent indefinite* ..... *7,000,000.*]
[*Current indefinite* ..... *86,500,000.*]
[*By transfer* ..... *4,000,000.*]
[*Limitation on administrative expenses* ..... *9,918,000.*]

TITLE III—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

Notwithstanding sections 110 and 122 of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989) for necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945), expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad, including not to exceed $7,000,000 for counterterrorism research and development; permanent representation to certain international organizations in which the United States participates pursuant to treaties, conventions, or specific Acts of Congress; acquisition by exchange or purchase of vehicles as authorized by law, except that special requirement vehicles may be purchased without regard to any price limitation otherwise established by law; $1,694,000,000: *Provided,* That none of these funds shall be available for the Office of Public Diplomacy for Latin America and the Caribbean. $1,694,000,000

REPRESENTATION ALLOWANCES

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), and for representation by United States missions to the United Nations and the Organization of American States, $4,500,000. 4,500,000

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314), and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,000,000. 9,000,000

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), $313,100,000, to remain available until expended: *Provided,* That the funds appropriated in this paragraph shall be available subject to the approval of the House and Senate Committees on Appropriations under said Committees' policies concerning the reprogramming of funds contained in House Report 100-182: *Provided further,* That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies. $313,100,000

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $4,000,000, to remain available until expended. 4,000,000

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), $11,000,000. 11,000,000

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $86,000,000. 86,000,000

[*Total, Administration of Foreign Affairs, $2,121,600,000.*]

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

Notwithstanding section 102(a) (1) through (11) of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989), for expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, $480,000,000, to remain available until expended: *Provided,* That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings. 480,000,000

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, $29,400,000. 29,400,000

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations and representation to such organizations, and personal services without regard to civil service and classification laws,

$6,000,000, to remain available until expended, of which not to exceed $200,000 may be expended for representation as authorized by law. $6,000,000

[*Total, International Organizations and Conferences, $515,400,000.*]

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, conventions, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the United States and Mexico International Boundary and Water Commission, and to comply with laws applicable to the United States Section; and leasing of private property to remove therefrom sand, gravel, stone, and other materials, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, including preliminary surveys, operation and maintenance of the interceptor system to be constructed to intercept sewage flows from Tijuana and from selected canyon areas as currently planned, and the operation and maintenance upon completion of the proposed Environmental Protection Agency and Corps of Engineers pipeline and plant project to capture Tijuana sewage flows in the event of a major breakdown in Mexico's conveyance system, $10,261,000: *Provided,* That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89): *Provided further,* That the Anzalduas diversion dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of such portions of the cost of said dam as shall have been allocated to such purposes by the Secretary of State: *Provided further,* That not to exceed $500,000 of the amount appropriated in this paragraph shall be available to reimburse the city of San Diego, in the State of California, for expenses incurred in treating domestic sewage received from the city of Tijuana, in the State of Baja California, Mexico. 10,261,000

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For detailed plan preparation and construction of authorized projects, including the Rio Grande Rectification Improvement project, to remain available until expended, $3,166,000: *Provided,* That activities for the New River project may be financed from these funds or from carryover balances under the heading, "International Boundary and Water Commission, United States and Mexico, Construction". 3,166,000

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 for necessary expenses, not otherwise provided for, including not to exceed $6,000 for representation, $4,316,000; for the International Joint Commission, including salaries and expenses of the Commissioners on the part of the United States who shall serve at the pleasure of the President; salaries of employees appointed by the Commissioners on the part of the United States with the approval solely of the Secretary of State; travel expenses and compensation of witnesses; and the International Boundary Commission, for necessary expenses, not otherwise provided for, including expenses required by awards to the Alaskan Boundary Tribunal and existing treaties between the United States and Canada or Great Britain. $4,316,000

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, $10,548,000: *Provided,* That the United States share of such expenses may be advanced to the respective commissions. 10,548,000

[*Total, International Commissions, $28,291,000.*]

OTHER

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For expenses, not otherwise provided for, to enable the United States to participate in programs of scientific and technological cooperation with Yugoslavia, $1,900,000, to remain available until expended. 1,900,000

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, $13,700,000, to remain available until expended. 13,700,000

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses not otherwise provided to enable the Secretary of State to reimburse private firms and American institutions of higher education for research contracts and graduate training for development and maintenance of knowledge about the Soviet Union and Eastern European countries, $4,600,000. 4,600,000

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of section 7 of the Fishermen's Protective Act of 1967, as amended, $1,725,000 to be derived from the receipts collected pursuant to that Act, to remain available until expended. 1,725,000

FISHERMEN'S PROTECTIVE FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $959,000, to remain available until expended. 959,000

[*Total, other, $22,884,000.*]

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 301. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as

authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger or freight transportation.

SEC. 302. The Secretary of State shall report to the appropriate committees of the Congress on the obligation of funds provided for diplomatic security and related expenses every month beginning January 1, 1988.

SEC. 303. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a total of $290,000 for each fiscal year to carry out (in accordance with the respective authorization amounts) paragraph (2) of the first section of Public Law 74-170, section 2(2) of Public Law 84-689, section 2 of Public Law 86-42, and section 2 of Public Law 86-420. These funds may be disbursed to each delegation, pursuant to vouchers in accordance with the applicable provisions of law, at any time requested by the Chairman of the delegation after that fiscal year begins. Section 2 of Public Law 84-689 is amended by striking out "annually," and inserting in lieu thereof "annually (1)", by striking out "$50,000, $25,000" and inserting in lieu thereof "(2) $100,000, $50,000", and by striking out "and $25,000" and inserting in lieu thereof "and $50,000".

$290,000 *(permanent appropriation in future fiscal years)*

SEC. 304. The Secretary of State shall not permit the Soviet Union to occupy the new chancery building at its new embassy complex in Washington D.C. or any other new facility in the Washington, D.C. metropolitan area, until a new chancery building is ready for occupancy for the United States embassy in Moscow: *Provided,* That none of the funds appropriated in this Act or any prior Act may be obligated for the new office building in Moscow except for engineering and technical studies prior to October 1, 1988.

SEC. 305. The following sections of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989) are waived during fiscal years 1988 and 1989 in the event that H.R. 1777 is enacted into law: sections 122, 151, and 204.

This title may be cited as the "Department of State Appropriation Act, 1988".

[*Total, title III, Department of State, new budget (obligational) authority, $2,688,465,000.*]

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase, or hire, driving, maintenance and operation of an automobile for the Chief Justice and not to exceed $10,000 for the purpose of transporting Associate Justices, hire of passenger motor vehicles; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $15,247,000.

15,247,000

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), including improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended), and for snow removal by hire of men and equipment or under contract, and

for security installations both without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); $2,110,000, of which $75,000 shall remain available until expended. $2,110,000

[*Total, Supreme Court of the United States, $17,357,000.*]

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for all necessary expenses of the court, $7,430,000. 7,430,000

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges; salaries of the officers and employees of the court; services as authorized by 5 U.S.C. 3109; and necessary expenses of the court, including exchange of books and traveling expenses, as may be approved by the court; $7,768,000: *Provided,* That travel expenses of judges of the Court of International Trade shall be paid upon written certificate of the judge. 7,768,000

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrates, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and all necessary expenses of the courts, including the purchase of firearms and ammunition, $1,081,447,000: *Provided,* That, of the total amount appropriated, $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions: *Provided further,* That the number of staff attorneys to be appointed in each of the courts of appeals shall not exceed the ratio of one attorney for each authorized judgeship, exclusive of the seven attorneys assigned preargument conference duties: *Provided further,* That such sums as may be available in the fund established pursuant to 28 U.S.C. 1931 may be credited to this appropriation. 1,081,447,000

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by law; $85,100,000 to remain available until expended. 85,100,000

FEES OF JURORS AND COMMISSIONERS

For fees and expenses and refreshments of jurors; compensation of jury commissioners; and compensation of commissioners appointed

in condemnation cases pursuant to Rule 71A(h) of the Federal Rules of Civil Procedure; $43,135,000, to remain available until expended: *Provided,* That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code. $43,135,000

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities; $40,853,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General. 40,853,000

[*Total, Courts of Appeals, District Courts, and Other Judicial Services, $1,250,535,000.*]

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts, including travel, advertising, hire of a passenger motor vehicle, and rent in the District of Columbia and elsewhere, $31,167,000, of which an amount not to exceed $5,000 is authorized for official reception and representation expenses. 31,167,000

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $10,548,000. 10,548,000

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $5,129,000. 5,129,000

GENERAL PROVISIONS—THE JUDICIARY

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

SEC. 403. The position of Trustee Coordinator in the Bankruptcy Courts of the United States shall not be limited to persons with formal legal training.

SEC. 404. Notwithstanding any other provision of law, the Administrative Office of the United States Courts, or any other agency or instrumentality of the United States, is prohibited from

restricting solely to staff of the Clerks of the United States Bankruptcy Courts the issuance of notices to creditors and other interested parties. The Administrative Office shall permit and encourage the preparation and mailing of such notices to be performed by or at the expense of the debtors, trustees or such other interested parties as the Court may direct and approve. The Director of the Administrative Office of the United States Courts shall make appropriate provisions for the use of and accounting for any postage required pursuant to such directives. The provisions of this paragraph shall terminate on October 1, 1988.

SEC. 405. Such fees as shall be collected for the preparation and mailing of notices in bankruptcy cases as prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. 1930(b) shall be deposited to the "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses" appropriation to be used for salaries and other expenses incurred in providing these services.

SEC. 406. Pursuant to section 140 of Public Law 97-92, during fiscal year 1988, justices and judges of the United States shall receive the same percentage increase in salary accorded to employees paid under the General Schedule (pursuant to 5 U.S.C. 5305).

SEC. 407. Section 1344(b)(1) of title 31, United States Code, is amended by inserting—

"(2) The Chief Justice and Associate Justices of the Supreme Court;" and redesignating subsections (2) and (3) as subsections (3) and (4), respectively.

SEC. 408. (a) Section 153(a) of title 28, United States Code, is amended to read as follows:

"(a) Each bankruptcy judge shall serve on a full-time basis and shall receive as full compensation for his services, a salary at an annual rate that is equal to 92 percent of the salary of a judge of the district court of the United States as determined pursuant to section 135, to be paid at such times as the Judicial Conference of the United States determines.".

(b) Section 634(a) of title 28, United States Code, is amended by amending the first sentence to read as follows:

"(a) Officers appointed under this chapter shall receive, as full compensation for their services, salaries to be fixed by the conference pursuant to section 633, at rates for full-time United States magistrates up to an annual rate equal to 92 percent of the salary of a judge of the district court of the United States, as determined pursuant to section 135, and at rates for part-time magistrates of not less than an annual salary of $100, nor more than one-half the maximum salary payable to a full-time magistrate.".

(c) Section 225(C) of the Federal Salary Act of 1967 (2 U.S.C. 356(c)) is amended by striking out "and magistrates and" and inserting in lieu thereof "except bankruptcy judges, but including".

(d) This section shall become effective October 1, 1988, and any salary affected by the provisions of this section shall be adjusted at the beginning of the first applicable pay period commencing on or after such date of enactment.

SEC. 409. Section 603 of title 28, United States Code, is amended by striking the second sentence and inserting in lieu thereof the following: "The salaries of the Deputy Director and of three additional positions shall be fixed by the Director at rates not to exceed the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5.".

This title may be cited as "The Judiciary Appropriation Act, 1988".

[*Total, title IV, the Judiciary, new budget (obligational) authority, $1,329,934,000.*]

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES (LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $250,300,000, to remain available until expended. *$250,300,000 (liquidation of contract authority)*

OCEAN FREIGHT DIFFERENTIAL

Such sums as may be necessary for fiscal year 1988 and thereafter are hereby appropriated to liquidate debt and pay interest due to the Secretary of the Treasury, as required by section 901d, Merchant Marine Act, 1936. 78,455,000
−77,513,000 *(portion applied to debt reduction)*

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $75,521,000, to remain available until expended: *Provided,* That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program: *Provided further,* That in addition to any amount heretofore appropriated, $10,000,000 of the funds appropriated in this paragraph shall be available for the activation and conversion costs of a training vessel for the State University of New York Maritime College: *Provided further,* That the second sentence of the paragraph under this heading in chapter II of title I of the Act of August 22, 1984 (98 Stat. 1372), is amended by deleting "preconversion" and inserting in lieu thereof "activation and conversion", by inserting a period after the word "expended", and by deleting the remainder of the sentence: *Provided further,* That hereafter such training vessel shall be subject to a plan for sharing training vessels approved by the Secretary of Transportation, if such plan is deemed necessary: *Provided further,* That hereafter no funds shall be appropriated for the purchase or construction of training vessels for State maritime academies unless a plan for sharing training vessels between State maritime academies has been approved by the Maritime Administration. 75,521,000

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration and payments received by the Maritime Administration for utilities, services, and repairs so furnished or made shall be credited to the appropriation charged with the cost thereof: *Provided,* That rental payments under any such lease, contract, or occupancy on account of items other than such utilities, services or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act, or in any prior appropriation Act and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

[*Total, Department of Transportation, $76,463,000.*]

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $48,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), $30,100,000 of which $2,600,000 shall be transferred to the Department of Energy for the Reduced Enrichment in Research and Test Reactor Program. $30,100,000

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to RFE/RL, Inc., $185,000,000, of which $20,000,000, to remain available until expended, shall become available for expenditure on October 1, 1988, and of which not to exceed $52,000 may be made available for official reception and representation expenses. 185,000,000

ISRAEL RADIO RELAY STATION

There is hereby appropriated the sum of $34,000,000, to remain available until expended, to the Board for International Broadcasting for the purpose of making and overseeing grants to Radio Free Europe/Radio Liberty, Incorporated, and its subsidiaries and of making payments as necessary in order to begin implementation of the agreement signed on June 18, 1987, between the United States Government and the Government of Israel to establish and operate a radio relay station in Israel for use by Radio Free Europe/Radio Liberty and the Voice of America. 34,000,000

[*Total, Board for International Broadcasting, $219,000,000.*]

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission, $212,000, to remain available until November 15, 1992. 212,000

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Commission on the Bicentennial of the United States Constitution authorized by Public Law 98-101 (97 Stat. 719-723), $16,000,000 to remain available until expended, of which $6,250,000 is for carrying out the provisions of Public Law 99-194, including $2,850,000 for implementation of the National Bicentennial Competition on the Constitution and the Bill of Rights and $3,400,000 for educational programs about the Constitution and the Bill of Rights below the university level as authorized by such Act, and in addition, $1,000,000 to remain available until expended, is provided for a grant to the National Trust for Historic Preservation for the purpose of making urgently needed repairs necessary to preserve James Madison's Montpelier from the threat of destruction by fire and structural deterioration, and provide for necessary public health and safety, and in addition, $1,000,000 is provided for a grant to the We The People 200 Committee: *Provided*, That not to 16,000,000 1,000,000 1,000,000

exceed a total of $1,250,000 from apprpriations provided to the Commission on the Bicentennial of the United States Constitution for fiscal years 1985 through 1988 is available for educational programs about the Constitution and the Bill of Rights below the university level not provided for elsewhere in this Act: *Provided further,* That until the Board of Trustees of the James Madison Memorial Fellowship Foundation is appointed, the Commission on the Bicentennial of the United States Constitution is authorized to receive, review and certify for payment the applications for grants of endowment funds for the establishment of Constitutional Law Resource Centers as provided and appropriated under the James Madison Memorial Fellowship Act, title VIII, sections 817 and 818, Public Law 99-500 and Public Law 99-591; and the authority to make grants to carry out an educational program for the Commemoration of the Bicentennial of the Constitution of the United States and the Bill of Rights, enacted under title V, section 501 of Public Law 99-194, is amended by (i) striking the period at the end of section 501(a)(2)(B), inserting a semicolon and the word "and", and (ii) adding the following: "(C) is authorized to make grants for the establishment of Constitutional Law Resource Centers in accordance with the terms of title VIII, sections 817 and 818 of Public Law 99-500 and Public Law 99-591, and is authorized to make grants to two University Centers in accordance with the terms of Amendment Numbered 70 of Conference Report 99-236 (Public Law 99-88 [99 Stat. 305]).": *Provided further,* That there is hereby appropriated for each recipient University Center named in Amendment Numbered 70 of Conference Report 99-236 (Public Law 99-88 [99 Stat. 305]) an additional $1,500,000 to remain available until expended for the endowment funds created pursuant to such Act and to be used under the same conditions and requirements set forth therein and such Bicentennial Commission or Board of Trustees referred to above is authorized to receive, review and certify for payment the applications for said grants. $3,000,000

[*Total, Commission on the Bicentennial of the United States Constitution, $21,000,000.*]

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $5,707,000, of which $2,000,000 is for regional offices and $700,000 is for civil rights monitoring activities: *Provided,* That not to exceed $20,000 may be used to employ consultants: *Provided further,* That not to exceed $185,000 may be used to employ temporary or special needs appointees: *Provided further,* That none of the funds shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service, exclusive of one special assistant for each Commissioner whose compensation shall not exceed the equivalent of 150 billable days at the daily rate of a level 11 salary under the General Schedule: *Provided further,* That not to exceed $40,000 shall be available for new, continuing or modifications of contracts for performance of mission-related external services: *Provided further,* That none of the funds shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days: *Provided further,* That the General Accounting Office shall perform a mid-year audit of the Commission to determine compliance with this section and shall report its findings to the Appropriations Committees of the Senate and House of Representatives by June 1, 1988. 5,707,000

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $701,000, to remain available until expended: *Provided,* That not to exceed $6,000 of such amount shall be available for official reception and representation expenses. $701,000

COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Commission for the Study of International Migration and Cooperative Economic Development as authorized by title VI of Public Law 99-603, $870,000, to remain available until expended. 870,000

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $20,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; $179,812,000: *Provided,* That the final rule regarding unsupervised waivers under the Age Discrimination in Employment Act, issued by the Commission on August 27, 1987 (29 CFR sections 1627.16 (c) (1)-(3)), shall not have effect during fiscal year 1988: *Provided further,* That none of the funds may be obligated or expended by the Commission to give effect to any policy or practice pertaining to unsupervised waivers under the Age Discrimination in Employment Act. 179,812,000

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $300,000 for land and structures; not to exceed $300,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses: purchase (not to exceed ten) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $99,613,000, of which not to exceed $300,000 of the foregoing amount shall remain available until September 30, 1989, for research and policy studies: *Provided,* That none of the funds appropriated by this Act shall be used to repeal, to retroactively apply changes in, or to continue a reexamination of, the policies of the Federal Communications Commission with respect to comparative licensing, distress sales and tax certificates granted under 26 U.S.C. 1071, to expand minority and women ownership of broadcasting licenses, including those established in Statement of Policy on Minority Ownership of Broadcast Facilities, 68 F.C.C. 2d 979 and 69 F.C.C. 2d 1591, as amended 52 R.R. 2d 1313 (1982) and Mid-Florida Television Corp., 60 F.C.C. 2d 607 Rev. Bd. (1978), which were effective prior to September 12, 99,613,000

1986, other than to close MM Docket No. 86-484 with a reinstatement of prior policy and a lifting of suspension of any sales, licenses, applications, or proceedings, which were suspended pending the conclusion of the inquiry: *Provided further,* That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): *Provided further,* That none of the funds appropriated by this Act or any other Act may be used to repeal, to retroactively apply changes in, or to begin or continue a re-examination of the rules of the Federal Communications Commission with respect to the common ownership of a daily newspaper and a television station where the grade A contour of the television station encompasses the entire community in which the newspaper is published, or to extend the time period of current grants of temporary waivers to achieve compliance with such rules: *Provided further,* That no funds appropriated to the Federal Communications Commission shall be used prior to March 22, 1988 to accept or grant any applications to construct or operate cellular systems in rural service areas.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02; $13,585,000: *Provided,* That not to exceed $1,500 shall be available for official reception and representation expenses. $13,585,000

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; the sum of $66,243,000: *Provided,* That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374). 66,243,000

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $34,750,000. 34,750,000

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,200,000, to remain available until expended; and an amount of 1,200,000 *(trust funds)*

Japanese currency not to exceed the equivalent of $1,700,000 based on exchange rates at the time of payment of such amounts, to remain available until expended: *Provided,* That not to exceed a total of $3,500 of such amounts shall be available for official reception and representation expenses. *$1,700,000 (foreign currency)*

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $305,500,000 of which $261,294,000 is for basic field programs, $7,022,000 is for Native American programs, $9,698,000 is for migrant programs, $1,100,000 is for law school clinics, $1,000,000 is for supplemental field programs, $624,000 is for regional training centers, $7,228,000 is for national support, $7,843,000 is for State support, $865,000 is for the Clearinghouse, $510,000 is for computer assisted legal research regional centers, and $8,316,000 is for Corporation management and administration: *Provided,* That none of the funds appropriated in this paragraph shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of Public Law 99–180 and section 112 of Public Law 99–190: *Provided further,* That the funds distributed to each grantee funded in fiscal year 1988 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order: 305,500,000

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1988 at not less than 1 per centum more than the annual level at which each grantee and contractor was funded in fiscal year 1987 or $8.30 per poor person within its geographical area under the 1980 Census, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under the first priority above, falls below $14.56 per poor person within its geographical area under the 1980 census:

Provided further, That if funds become available because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs, to be distributed in the manner specified by this paragraph, if the Appropriations Committees of both Houses of Congress have been notified pursuant to section 608 of this Act: *Provided further,* That the Corporation shall utilize the same formula for distribution of fiscal year 1988 migrant funds as was used in fiscal year 1987: *Provided further,* That none of the funds appropriated by this Act or prior Acts may be used by an officer, board member, employee or consultant of the Corporation to implement or enforce provisions in the regulation regarding legislative and administrative advocacy and training (Part 1612, 52 FR 28434 (July 29, 1987)) which impose restrictions on private funds received by a recipient for the provision of legal assistance except to the extent that such restrictions are explicitly authorized by sections 1007 (a)(5), (b)(6), (b)(7), and 1010(c) of the LSC Act: *Provided further,* That the Corporation shall not impose requirements on governing bodies of recipients that are additional to, or more restrictive than, the provisions of Public Law 99–180 and section 1007(c) of the Legal Services Corporation Act including, but not limited to (1) the procedures of appointment, including the political affiliation and the length of terms of, board members and (2) the size, quorum requirements, and committee operations of such governing bodies.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $953,000. $953,000

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $15,229,000, of which $1,000,000 shall remain available until expended: *Provided,* That not to exceed $69,000 shall be available for official reception and representation expenses. 15,229,000

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $9,000 for official reception and representation expenses, $135,221,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Association of Securities Commissioners. 135,221,000

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration, including hire of passenger motor vehicles and not to exceed $2,500 for official reception and representation expenses $175,832,000; and for grants for performance in fiscal year 1988 or fiscal year 1989 for Small Business Development Centers as authorized by section 21(a) of the Small Business Act, as amended, $40,000,000: *Provided,* That not more than $350,000 of this amount shall be made available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act: *Provided further,* That none of the funds appropriated or made available by this Act or otherwise appropriated or made available to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648) nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987, unless specifically approved by the Committees on Appropriations under reprogramming procedures; nor may any of such funds be used to restrict in any way the right of association of participants in such program: *Provided further,* That the staffing levels at the Small Business Administration District Office, Clarksburg, West Virginia and the Small Business Administration Branch Office, Charleston, West Virginia, shall be maintained at the same 175,832,000 40,000,000

levels that were in place as of August 30, 1987. In addition, $88,228,000 for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund". *$88,228,000 (by transfer)*

None of the funds made available under this joint resolution or any subsequent appropriations Act for fiscal year 1988 for the Small Business Administration shall be used to promulgate final regulations adjusting numerical size standards as required by section 921 (f) and (h) of Public Law 99-661 and section 921 (f) and (h) of Public Law 99-591 prior to May 31, 1988.

[*Total, salaries and expenses, $215,832,000.*]

REVOLVING FUNDS

The Small Business Administration is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to its revolving funds, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the "Disaster Loan Fund", the "Business Loan and Investment Fund", the "Lease Guarantees Revolving Fund", the "Pollution Control Equipment Contract Guarantees Revolving Fund", and the "Surety Bond Guarantees Revolving Fund".

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", $91,000,000, to remain available without fiscal year limitation; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund", $85,000,000, to remain available without fiscal year limitation. 91,000,000 85,000,000

[*Total, business loan and investment fund, $176,000,000.*]

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $9,497,000, to remain available without fiscal year limitation. 9,497,000

POLLUTION CONTROL EQUIPMENT CONTRACT

GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $13,656,000, to remain available without fiscal year limitation. 13,656,000

[*Total, Small Business Administration, $414,985,000.*]

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by Public Law 98-620, $10,980,000, to remain available until expended. 10,980,000

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by Reorganization

Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $270,000, of which $250,000 is to facilitate United States participation in international expositions abroad); expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928 and 22 U.S.C. 287e-1; and entertainment, including official receptions, within the United States, not to exceed $20,000; $620,347,000, none of which shall be restricted from use for the purposes appropriated herein and of which $36,900,000 shall be available for the Television and Film Service: *Provided,* That not to exceed $1,070,000 may be used for representation abroad: *Provided further,* That not to exceed $14,557,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further,* That not to exceed $500,000 shall remain available until expended, for expenses (including those authorized by the Foreign Service Act of 1980) and equipment necessary for maintenance and operation of such data processing and administrative services as the Director determines may be performed advantageously and more economically as central services: *Provided further,* That not to exceed $3,650,000 may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion picture, and television programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: *Provided further,* That the funds appropriated by this paragraph shall be available notwithstanding sections 201(2) and 204 of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989) whenever it or alternative authorization legislation is enacted and notwithstanding section 701 of the United States Information and Educational Exchange Act of 1948, as amended. $620,347,000

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

Notwithstanding section 301(a) (1) through (7) of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989), for expenses of Fulbright, International Visitor, Humphrey Fellowship and Congress-Bundestag Exchange Programs, as authorized by Reorganization Plan No. 2 of 1977 and the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), $142,310,000: *Provided,* That not less than $540,000 shall be made available to the Institute for Representative Government for a pilot program for exchanges of persons and other exchange-related activities with legislators and legislatures of developing democracies: *Provided further,* That not less than $2,000,000 shall be made available for a grant to the Oregon Historical Society to assist in the establishment of the North Pacific Research Center in Portland, Oregon. For the Private Sector Exchange Programs, $7,730,000 of which $500,000 shall be available only for the Seattle Goodwill Games Organizing Committee for Cultural Exchange and other exchange-related activities associated with the 1990 Goodwill Games to be held in Seattle, Washington. 142,310,000

7,730,000

[*Total, educational and cultural exchange programs, $150,040,000.*]

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, $12,759,000, to remain available until expended, of which not to exceed $100,000 shall be available for the Advisory Board on Radio Broadcasting to Cuba for a feasibility study on television broadcasting to Cuba. $12,759,000

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $20,000,000: *Provided,* That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the highest rate authorized in the General Schedule of the Classification Act of 1949, as amended. 20,000,000

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $16,875,000. 16,875,000

ADMINISTRATIVE PROVISION—UNITED STATES INFORMATION AGENCY

The United States Information Agency and the Voice of America shall pursue all relevant information relating to the availability of transmitters and antennas, spare parts, and other technical equipment to determine whether such items can be procured at reasonable prices and in a timely manner under all foreseeable circumstances. The agency and the Voice of America shall purchase American-manufactured equipment and materials to the fullest extent reasonably possible under the law in carrying out the facilities modernization program. This provision shall apply to all funds which are obligated for the facilities modernization program during fiscal year 1988. Where a foreign bidder receives any governmental subsidy, the price bid of each foreign bidder shall be increased by the amount of that subsidy as determined by the Department of Commerce for purposes of this procurement.

[*Total, United States Information Agency, $820,021,000.*]

GENERAL PROVISIONS—RELATED AGENCIES

Funds appropriated to the United States Information Agency for radio construction and to the Board for International Broadcasting for facility modernization, including for both agencies balances available from prior years, may be transferred between the two agencies to meet priority broadcasting facility improvement needs as mutually agreed to by the Director of the United States Information Agency and the Chairman of the Board for International Broadcasting: *Provided,* That such transfers will be subject to the

approval of the Committees on Appropriations of the House of Representatives and the United States Senate pursuant to the reprogramming provisions of section 608 of this Act.

[*Total, title V, Related Agencies:*
[*New budget (obligational) authority (net)* ..... *$2,452,145,000.*]
[*Appropriations* ..... *2,529,658,000.*]
[*Appropriations for debt reduction* ..... *—77,513,000.*]
[*By transfer* ..... *88,228,000.*]
[*Liquidation of contract authority* ..... *250,300,000.*]
[*Foreign currency appropriation* ..... *1,700,000.*]

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. None of the funds appropriated in titles II and V of this Act may be used for any activity to alter the per se prohibition on resale price maintenance in effect under Federal antitrust laws: *Provided*, That nothing in this provision shall prohibit any employee of a department or agency for which funds are provided in titles II and V of this Act from presenting testimony on this matter before appropriate committees of the House and Senate.

SEC. 606. None of the funds appropriated by this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion.

SEC. 607. No funds appropriated under this Act may be used to procure any item or service from a foreign entity which engages, directly or indirectly, in activities which, if it were a United States person, would violate section 8 of the Export Administration Act of 1979 (50 U.S.C. Appendix, section 2401 et seq.).

SEC. 608. (a) None of the funds provided under this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $250,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 609. No funds appropriated under this Act may be used to sell direct loans which are held by the Small Business Administration or any loan guaranty or debenture guaranty made by the Small Business Administration under the authority contained in the Small Business Investment Act of 1958, and which was held by the Federal Financing Bank on September 30, 1987.

SEC. 610. (a) Unless specifically permitted by subsequently enacted legislation, none of the funds appropriated or made available by this Act to the Small Business Administration may be used—

(1) to impose a user fee in connection with a Small Business Administration program or service for which no user fee was in effect on September 1, 1987, or

(2) to increase a user fee which was in effect in connection with such a program or service on such date.

TITLE VII—CUBAN POLITICAL PRISONERS AND IMMIGRANTS

SEC. 701. This title may be cited as "Cuban Political Prisoners and Immigrants".

SEC. 702. (a) PROCESSING OF CERTAIN CUBAN POLITICAL PRISONERS AS REFUGEES.—In light of the announcement of the Government of Cuba on November 20, 1987, that it would reimplement immediately the agreement of December 14, 1984, establishing normal migration procedures between the United States and Cuba, on and after the date of enactment of this Act, consular officer of the Department of State and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to reassure the orderly process of available applicants.

(b) PROCESSING OF IMMIGRANT VISA APPLICATIONS OF CUBAN NATIONALS IN THIRD COUNTRIES.—Notwithstanding section 212(f) and section 243(g) of the Immigration and Nationality Act, on and after the date of the enactment of this Act, consular officers of the Department of State shall process immigrant visa applications by nationals of Cuba located in third countries on the same basis as immigrant visa applications by nationals of other countries.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "process" means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications.

(2) The term "refugee" has the meaning given such term in section 101(a)(42) of the Immigration and Nationality Act.

TITLE VIII—INDOCHINESE REFUGEE RESETTLEMENT AND PROTECTION ACT OF 1987

SEC. 801. This title may be cited as the "Indochinese Refugee Resettlement and Protection Act of 1987".

SEC. 802. (a) FINDINGS.—It is the sense of the Congress that—

(1) the continued occupation of Cambodia by Vietnam and the oppressive conditions within Vietnam, Cambodia, and Laos have led to a steady flight of persons from those countries, and the likelihood for the safe repatriation of the hundreds of thousands of refugees in the region's camps is negligible for the foreseeable future;

(2) the United States has already played a major role in responding to the Indochinese refugee problem by accepting approximately 850,000 Indochinese refugees into the United States since 1975 and has a continued interest in persons who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam;

(3) Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand have been the front line countries bearing tremendous burdens caused by the flight of these persons;

(4) all members of the international community bear a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of slow and limited procedures, failure to implement effective policies for the region's "long-stayer" populations, failure to monitor adequately refugee protection and screening programs, particularly along the Thai-Cambodian and Thai-Laotian borders, and the instability of the Orderly Departure Program (ODP) from Vietnam which has served as the only safe, legal means of departure from Vietnam for refugees, including Amerasians and long-held "reeducation camp" prisoners;

(5) the Government of Thailand should be complimented for allowing the United States to process ration card holders in Khao I Dang and potentially qualified immigrants in Site 2 and in Khao I Dang;

(6) given the serious protection problem in Southeast Asian first asylum countries and the need to preserve first asylum in the region, the United States should continue its commitment to an ongoing, generous admission and protection program for Indochinese refugees, including urgently needed educational programs for refugees along the Thai-Cambodian and Thai-Laotian borders, until the underlying causes of refugee flight are addressed and resolved;

(7) the executive branch should seek adequate funding levels to meet United States policy objectives to ensure the well-being of Indochinese refugees in first asylum, and to process 29,500 Indochinese refugees within the overall refugee admissions level of 68,000 as determined by the President; and

(8) the Government of Thailand should be complimented for the progress that has been made in implementing an effective antipiracy program.

(b) RECOMMENDATIONS.—The Congress finds and recommends the following with respect to Indochinese refugees:

(1) The Secretary of State should urge the Government of Thailand to allow full access by highland refugees to the Lao Screening Program, regardless of the method of their arrival or the circumstances of their apprehension, and should intensify

its efforts to persuade the Government of Laos to accept the safe return of persons rejected under the Lao Screening Program.

(2) Refugee protection and monitoring activities should be expanded along the Thai-Laotian border in an effort to identify and report on incidents of refugees forcibly repatriated into Laos.

(3) The Secretary of State should urge the Government of Thailand to address immediately the problems of protection associated with the Khmer along the Thai-Cambodian border. The Government of Thailand, along with appropriate international relief agencies, should develop and implement a plan to provide for greater security and protection for the Khmer at the Thai border.

(4) The international community should increase its efforts to assure that Indochinese refugee camps are protected, that refugees have access to a free market at Site 2, and that international observers and relief personnel are present on a 24-hour-a-day basis at Site 2 and any other camp where it is deemed necessary.

(5) The Secretary of State should make every effort to identify each person at Site 2 who may qualify for admission to the United States as an immigrant and for humanitarian parole.

(6) The United Nations High Commissioner for Refugees should be pressed to upgrade staff presence and the level of advocacy to revive the international commitment with regard to the problems facing Indochinese refugees in the region, and to pursue voluntary repatriation possibilities in cases where monitoring is available and the safety of the refugees is assured.

(c) ALLOCATIONS OF REFUGEE ADMISSIONS.—Given the existing connection between ongoing resettlement and the preservation of first asylum, the United States and the United Nations High Commissioner for Refugees should redouble efforts to assure a stable and secure environment for refugees while dialog is pursued on other long-range solutions, it is the sense of the Senate that—

(1) within the worldwide refugee admissions ceiling determined by the President, the President should allocate—

(A) at least 28,000 admissions from East Asia, first-asylum camps,

(B) at least 8,500 admissions for the Orderly Departure Program, for each of the fiscal years 1988, 1989, and 1990; and

(2) within the allocation made by the President for the Orderly Departure Program from Vietnam pursuant to paragraph (1)(B), admissions allocated in a fiscal year under priorities II and III of the program (as defined in the Department of State Bureau for Refugee Programs worldwide processing priorities) and the number of admissions allocated for Amerasians and their immediate family members under priority I, should be generous.

(d) INTERNATIONAL SOLUTIONS TO REFUGEE PROBLEMS.—It is the sense of the Congress that—

(1) renewed international efforts must be taken to address the problem of Indochinese refugees who have lived in camps for 3 years or longer; and

(2) the Secretary of State should urge the United Nations High Commissioner for Refugees to organize immediately an international conference to address the problems of Indochinese refugees.

SEC. 803. REPORTING REQUIREMENT.—The President shall submit a report to Congress within 180 days after the date of the enactment of this Act on the respective roles of the Immigration and Naturalization Service and the Department of State in the refugee

program with recommendations for improving the effectiveness and efficiency of the program.

SEC. 804. FINDINGS AND DECLARATIONS.—The Congress makes the following findings and declarations:

(a) Thousands of children in the Socialist Republic of Vietnam were fathered by American civilians and military personnel.

(b) It has been reported that many of these Amerasian children are ineligible for ration cards and often beg in the streets, peddle black market wares, or prostitute themselves.

(c) The mothers of Amerasian children in Vietnam are not eligible for government jobs or employment in government enterprises and many are estranged from their families and are destitute.

(d) Amerasian children and their families have undisputed ties to the United States and are of particular humanitarian concern to the United States.

(e) The United States has a longstanding and very strong commitment to receive the Amerasian children in Vietnam, if they desire to come to the United States.

TITLE IX—ADJUSTMENT TO LAWFUL RESIDENT STATUS OF CERTAIN NATIONALS OF COUNTRIES FOR WHICH EXTENDED VOLUNTARY DEPARTURE HAS BEEN MADE AVAILABLE

SEC. 901. This title may be cited as "Adjustment to Lawful Resident Status of Certain Nationals of Countries for Which Extended Voluntary Departure Has Been Made Available".

SEC. 902. (a) ADJUSTMENT OF STATUS.—The status of any alien who is a national of a foreign country the nationals of which were provided (or allowed to continue in) "extended voluntary departure" by the Attorney General on the basis of a nationality group determination at any time during the 5-year period ending on November 1, 1987, shall be adjusted by the Attorney General to that of an alien lawfully admitted for temporary residence if the alien—

(1) applies for such adjustment within two years after the date of the enactment of this Act;

(2) establishes that (A) the alien entered the United States before July 21, 1984, and (B) has resided continuously in the United States since such date and through the date of the enactment of this Act;

(3) establishes continuous physical presence in the United States (other than brief, casual, and innocent absences) since the date of the enactment of this Act;

(4) in the case of an alien who entered the United States as a nonimmigrant before July 21, 1984, establishes that (A) the alien's period of authorized stay as a nonimmigrant expired not later than six months after such date through the passage of time or (B) the alien applied for asylum before July 21, 1984; and

(5) meets the requirements of section 245A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1255a(a)(4)).

The Attorney General shall provide for the acceptance and processing of applications under this subsection by not later than 90 days after the date of the enactment of this Act.

(b) STATUS AND ADJUSTMENT OF STATUS.—The provisions of subsections (b), (c)(6), (d), (f), (g), (h), and (i) of section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a) shall apply to aliens provided temporary residence under subsection (a) in the same manner as they apply to aliens provided lawful temporary residence status under section 245A(a) of such Act.

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1988".

[*Total, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations, 1988:*

[*New budget (obligational) authority (net)*	*$13,904,995,933.*]
[*Definite*	*13,890,550,000.*]
[*Permanent indefinite*	*7,000,000.*]
[*Current indefinite*	*86,500,000.*]
[*Appropriations for debt reduction*	*−77,513,000.*]
[*Rescission*	*−1,541,067.*]
[*By transfer*	*151,873,000.*]
[*Limitation on administrative expenses*	*9,918,000.*]
[*Limitation on loan guarantees*	*150,000,000.*]
[*Liquidation of contract authority*	*250,300,000.*]
[*Foreign currency appropriation*	*1,700,000.*]
[*Availability of funds*	*2,625,000.*]

(Department of Defense Appropriations Act, 1988)

(b) Such amounts as may be necessary for programs, projects or activities provided for in the Department of Defense Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I

MILITARY PERSONNEL

Military Personnel, Army

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $23,427,732,000. $23,427,732,000

Military Personnel, Navy

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $17,971,297,000. 17,971,297,000

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $5,478,266,000. $5,478,266,000

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $19,583,118,000. 19,583,118,000

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3021, and 3038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law, and for payments to the Department of Defense Military Retirement Fund; $2,239,365,000. 2,239,365,000

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,496,522,000. 1,496,522,000

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for

members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $292,209,000. $292,209,000

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8021, and 8038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $608,345,000. 608,345,000

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3021, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $3,196,386,000. 3,196,386,000

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8021, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty, or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $976,939,000. 976,939,000

[*Total, title I, Military Personnel, new budget (obligational) authority (all definite appropriations), $75,270,179,000.*]

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $17,923,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $20,853,205,000: *Provided,* That of the funds appropriated herein, $150,000 shall be available only to reimburse We The People 200, Incorporated, for expenses related to the celebration of the Bicentennial of the Constitution. 20,853,205,000

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $3,886,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $23,601,462,000: *Provided,* That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available to acquire the alteration, overhaul and repair by competition between public and private shipyards and air rework facilities. The Navy shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private shipyards and air rework facilities. Competitions shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, section 307 of the Department of Defense Authorization Act, 1985, or Office of Management and Budget Circular A-76: *Provided further,* That funds appropriated or made available in this Act shall be obligated and expended to restore the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels: *Provided further,* That in fiscal year 1988, of the amounts from this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available for the performance of the New Threat Upgrade program on one such vessel in the Philadelphia Naval Shipyard: *Provided further,* That contracting to private shipyards for the New Threat Upgrade overhaul program shall utilize full and open competition among shipyards qualified for overhaul work: *Provided further,* That not less than $540,000 shall be available only to operate the Naval Investigative Service Regional Office in New Orleans, Louisiana. $23,601,462,000

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,819,188,000. 1,819,188,000

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $6,775,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $19,661,448,000, of which $22,000,000 shall be available only to operate a C-130E unit at McChord Air Force Base, Washington. 19,661,448,000

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $7,112,951,000, of which not to exceed $10,789,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided,* That $900,000 is available to the Office of Economic Adjustment for making community planning assistance 7,112,951,000

grants pursuant to section 2391 of title 10, United States Code, and joint community/military planning assistance grants for mitigation of operational impacts from encroachment: *Provided further,* That of the amounts appropriated herein, $53,375 shall be available only to operate the procurement outreach center in North Platte, Nebraska: *Provided further,* That $100,000 shall be made available for payment to the National Academy of Sciences for participation in the "Study of the Impact of National Security Controls on International Technology Transfer": *Provided further,* That $9,000,000 shall be made available to the General Services Administration for carrying out the provisions of section 2 under the heading "National Defense Stockpile Transaction Fund" as set forth in section 101(m) of this joint resolution.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $857,540,000. $857,540,000

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $929,896,000. 929,896,000

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $69,500,000. 69,500,000

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,000,981,000. 1,000,981,000

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and

expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $1,856,542,000. $1,856,542,000

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; $1,958,063,000. 1,958,063,000

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses and personnel services (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the national matches) in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the issuance of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; and the payment to competitors at national matches under section 4312 of title 10, United States Code, of subsistence and travel allowances in excess of the amounts provided under section 4313 of title 10, United States Code; not to exceed $4,099,000, of which not to exceed $7,500 shall be available for incidental expenses of the National Board. 4,099,000

CLAIMS, DEFENSE

For payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of Columbia, or members of the National Guard units thereof; $193,574,000. 193,574,000

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; $3,241,000, and not to exceed $1,500 can be used for official representation purposes. 3,241,000

ENVIRONMENTAL RESTORATION, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; $402,800,000, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental 402,800,000

restoration, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: *Provided further,* That upon a determination that all or part of the funds transferred pursuant to this provision are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

HUMANITARIAN ASSISTANCE

For transportation for humanitarian relief for refugees of Afghanistan, acquisition and shipment of transportation assets to assist in the distribution of such relief, and for transportation and distribution of humanitarian and excess nonlethal supplies for worldwide humanitarian relief, as authorized by law; $13,000,000, to remain available for obligation until September 30, 1989: *Provided,* That the Department of Defense shall notify the Committees on Appropriations and Armed Services of the Senate and House of Representatives 21 days prior to the shipment of humanitarian relief which is intended to be transported and distributed to countries not previously authorized by Congress. $13,000,000

[*Total, title II, Operation and Maintenance, new budget (obligational) authority (all definite appropriations), $80,337,490,000.*]

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,718,406,000, to remain available for obligation until September 30, 1990. 2,718,406,000

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,332,237,000, to remain available for obligation until September 30, 1990: *Provided,* That funds may be obligated and expended for procurement and advance 2,332,237,000

procurement of the Forward Area Air Defense System, Line-of-Sight Forward-Heavy system without regard to the restrictions contained in section 111(d) of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180): *Provided further,* That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows:

Army Tactical Missile System, $9,125,000.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $3,207,187,000, to remain available for obligation until September 30, 1990. $3,207,187,000

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,273,592,000, to remain available for obligation until September 30, 1990. 2,273,592,000

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed 861 passenger motor vehicles, of which 398 shall be for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; as follows:

Tactical and support vehicles, $844,921,000;

Communications and electronics equipment, $3,177,739,000;

Other support equipment, $1,070,889,000;

In all: $5,093,549,000, to remain available for obligation until September 30, 1990: *Provided,* That $24,300,000 available from the fiscal year 1986 Other Procurement, Army appropriation for light division field artillery tactical data systems shall be obligated for procurement of seven LFATDS sets for seven light divisions by April 1, 1988. $5,093,549,000

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $9,522,299,000, to remain available for obligation until September 30, 1990: *Provided,* That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows: 9,522,299,000

A-6E Program, $0;
EA-6B Program, $479,413,000;
F-14 A/D Program, $734,289,000;
F/A-18 Program, $2,388,710,000;
SH-60B Program, $125,000,000;
SH-60F Program, $294,346,000;
Long Range ASW Capable Aircraft Program, $0;
E-2C Program, $380,195,000;
A-6E Modification Series, $219,478,000;
H-53 Modification Series, $22,737,000;
H-2 Modification Series, $55,000,000;
P-3 Modification Series, $136,865,000;
S-3 Modification Series, $74,772,000;
ES-3 Modification Series, $80,000,000;
E-2 Modification Series, $39,639,000;
Common ECM equipment, $16,708,000:

Provided further, That notwithstanding section 111(e) of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) $609,917,000 is available for the procurement of 12 A-6F aircraft.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Poseidon, $181,000;
TRIDENT I, $6,986,000;
TRIDENT II, $2,041,331,000;
Support equipment and facilities, $194,000;
Tomahawk, $847,336,000;
AIM/RIM-7 F/M Sparrow, $79,000,000;
AIM-9L/M Sidewinder, $25,833,000;

AIM-54A/C Phoenix, $343,596,000;
AGM-84A Harpoon, $142,660,000;
AGM-88A HARM, $187,128,000;
SM-2 MR, $583,098,000;
RAM, $44,931,000;
Stinger, $17,765,000;
Sidearm, $25,381,000;
Hellfire, $44,154,000;
Laser Maverick, $263,200,000;
IIR Maverick, $60,000,000;
Penguin, $3,455,000;
Aerial targets, $104,104,000;
Drones and decoys, $24,767,000;
Other missile support, $19,157,000;
Modification of missiles, $15,513,000;
Support equipment and facilities, $152,407,000;
Ordnance support equipment, $218,436,000;
MK-48 ADCAP torpedo program, $243,444,000;
MK-50 advance lightweight torpedo program, $108,402,000;
MK-30 mobile target program, $31,495,000;
Antisubmarine rocket (ASROC) program, $9,522,000;
Modification of torpedoes, $42,190,000;
Torpedo support equipment program, $53,986,000;
MK-15 close-in weapons system program, $28,023,000;
25mm gun mount, $4,091,000;
Small arms and weapons, $9,568,000;
Modification of guns and gun mounts, $57,589,000;
Guns and gun mounts support equipment program, $1,068,000;
Spares and repair parts, $127,028,000;

In all: $5,967,019,000, to remain available for obligation until September 30, 1990: *Provided,* That none of the funds provided herein may be used for a multiyear procurement contract of the Harpoon missile system: *Provided further,* That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows: $5,967,019,000

Trident II missile, $2,041,331,000.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

TRIDENT ballistic missile submarine program, $1,260,800,000;
CVN nuclear aircraft carrier program, $6,325,000,000;
SSN-688 attack submarine program, $1,676,900,000;
SSN-21 attack submarine program, $257,600,000;
Aircraft carrier service life extension program, $729,755,000;
CG-47 cruiser program, $4,127,000,000;
DDG-51 destroyer program, $5,500,000: *Provided,* That contracts awarded for any DDG-51 class destroyers in fiscal year

1989 shall be made on the basis of a full and open competition among all technically qualified bidders regardless of prior contractual experience for construction of DDG–51 destroyers. More than two shipyards may not be utilized for this purpose unless the Secretary of the Navy certifies that the Five Year Defense Plan is sufficient to support cost effective construction at more than two shipyards;

LHD–1 amphibious assault ship program, $752,900,000;
LSD–41 cargo variant ship program, $258,000,000;
T–AO fleet oiler program, $256,400,000;
AO conversion program, $44,100,000;
Strategic sealift program, $43,400,000;
T–ACS auxiliary crane ship program, $53,100,000;
LCAC landing craft air cushion program, $36,500,000;
For craft, outfitting, and post delivery, $328,400,000;

In all: $16,155,355,000, to remain available for obligation until September 30, 1992: *Provided,* That additional obligations may be incurred after September 30, 1992, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction; and each Shipbuilding and Conversion, Navy, appropriation that is currently available for such obligations may also hereafter be so obligated after the date of its expiration: *Provided further,* That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further,* That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards. $16,155,355,000

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 861 passenger motor vehicles of which 717 shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Ship support equipment, $812,891,000;
Communications and electronics equipment, $1,656,886,000;
Aviation support equipment, $674,615,000;
Ordnance support equipment, $829,037,000;
Civil engineering support equipment, $94,215,000;
Supply support equipment, $109,194,000;
Personnel and command support equipment, $416,823,000;
Spares and repair parts, $278,800,000;

In all: $4,872,461,000, to remain available for obligation until September 30, 1990. 4,872,461,000

COASTAL DEFENSE AUGMENTATION

For the augmentation of United States Coast Guard inventories to meet national security requirements; $20,000,000, to remain available until expended: *Provided,* That these funds shall be for the procurement by the Department of Defense of vessels, aircraft, and equipment and for modernization of existing Coast Guard assets, which assets are to be made available to the Coast Guard for operation and maintenance. 20,000,000

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including purchase of not to exceed 153 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; $1,295,599,000, to remain available for obligation until September 30, 1990. $1,295,599,000

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $12,956,827,000, to remain available for obligation until September 30, 1990: *Provided,* That none of the funds available to the Air Force may be obligated on B–1B bomber production contracts if such contracts would cause the production portion of the Air Force's $20,500,000,000 estimate for the B–1B bomber baseline costs expressed in fiscal year 1981 constant dollars to be exceeded. 12,956,827,000

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $7,290,771,000, to remain available for obligation until September 30, 1990. 7,290,771,000

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; for the purchase of not to exceed 1,313 passenger motor vehicles of which 1,260 shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of

title; reserve plant and Government and contractor-owned equipment layaway, as follows:

Munitions and associated equipment, $603,331,000;

Vehicular equipment, 232,830,000;

Electronics and telecommunications equipment, including $36,100,000 to complete procurement of relay nodes (towers) for the Ground Wave Emergency Network Program, $1,937,906,000;

Other base maintenance and support equipment, $5,236,760,000;

In all: $8,010,827,000, to remain available for obligation until September 30, 1990. $8,010,827,000

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, as follows:

Army Reserve, $85,000,000;

Navy Reserve, $258,800,000;

Marine Corps Reserve, $40,000,000;

Air Force Reserve, $202,100,000;

Army National Guard, $273,100,000;

Air National Guard, $341,000,000;

In all: $1,200,000,000, to remain available for obligation until September 30, 1990: *Provided,* That notwithstanding section 112(b) of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) $193,800,000 is available only for the procurement of six P-3 aircraft. 1,200,000,000

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 535 passenger motor vehicles of which 524 shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $1,266,263,000, to remain available for obligation until September 30, 1990. 1,266,263,000

DEFENSE PRODUCTION ACT PURCHASES

For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); $13,000,000, to remain available for obligation until September 30, 1990. 13,000,000

[*Total, title III, Procurement, new budget (obligational) authority (all definite appropriations), $84,195,392,000.*]

TITLE IV

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, re-

habilitation, lease, and operation of facilities and equipment, as authorized by law; $4,687,513,000, to remain available for obligation until September 30, 1989: *Provided,* That $3,500,000 shall be available as a one-time appropriation to conduct nutrition research activities at the Pennington Biomedical Research Center: *Provided further,* That none of the funds provided by this Act for the fiscal year 1988 support of the AFATDS program office shall be available for obligation beyond April 1, 1988 unless the LFATDS procurement contract has been executed: *Provided further,* That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows: $4,687,513,000

Army Tactical Missile System, $102,208,000;
Electronic Warfare Programs, $85,000,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $9,493,546,000, to remain available for obligation until September 30, 1989: *Provided,* That $112,899,000 shall be made available only for the Advanced Submarine Technology Program as described in section 211 of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) and not less than $90,000,000 of this amount is to be allocated to development of hull, mechanical, electrical, and non-nuclear propulsion systems: *Provided further,* That funds made available for the SSN-21 Combat System shall not be obligated or expended except for a system design which incorporates at least four units of the Enhanced Modular Signal Processor: *Provided further,* That $1,800,000 shall be made available for personnel and other expenses for the Institute for Technology Development, as a grant, for the National Center for Physical Acoustics: *Provided further,* That notwithstanding section 203(a) of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180), $111,023,000 of funds provided in this section may be obligated or expended for the purpose of configuring the A-6 aircraft in the F model configuration: *Provided further,* That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows: Trident II, $1,050,463,000; Electronic Warfare Programs, $198,691,000: *Provided further,* That not less than $2,100,000 shall be available only for the National Bone Marrow Donor Registry and of that amount, $200,000 shall be available only to integrate independent bone marrow donor centers into the National Registry. 9,493,546,000

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $15,002,095,000, to remain available for obligation until September 30, 1989: *Provided,* That $91,500,000 of funds made available for the National Aerospace Plane (NASP) Program may not be obligated or expended until the Secretary of Defense 15,002,095,000

certifies that the Department of Defense and the National Aeronautics and Space Administration (NASA) have negotiated revised funding arrangements for NASP development which significantly increase NASA investment as a percentage of total NASP research, development, test and evaluation costs: *Provided further,* That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows:

Pave Tiger, $0;
Industrial Preparedness, $85,000,000;
Electronic Warfare Programs, $179,800,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $7,631,825,000, to remain available for obligation until September 30, 1989: *Provided,* That such amounts as may be determined by the Secretary of Defense to have been available in other appropriations available to the Department of Defense during the current fiscal year or the following fiscal year, as appropriate, for programs related to advanced research may be transferred to and merged with either of the foregoing appropriations, as appropriate, to be available for the same purposes and time period as the appropriation to which transferred: *Provided further,* That during their period of availability, such amounts of the foregoing appropriations as may be determined by the Secretary of Defense may be transferred to carry out the purposes of advanced research to those appropriations for military functions under the Department of Defense which are being utilized for related programs to be merged with and to be available for the same time period as the appropriation to which transferred: *Provided further,* That $285,000,000 shall be made available only for the Defense Mapping Agency Exploitation Modernization Program: *Provided further,* That of the total amount available for obligation, $15,000,000 shall be made available only for the X-Ray Lithography Program: *Provided further,* That of the total amount available for obligation, $16,500,000 shall be made available through the Office of the Under Secretary of Defense for Acquisition only for bioenvironmental hazards research activities at universities, for associated facilities, and for other related purposes: *Provided further,* That of the total amount available for obligation, $7,000,000 shall be made available, as a grant, only for development of an engineering, sciences, and technology center to promote defense industry involvement in manpower training and education, for associated facilities, and for related purposes: *Provided further,* That of the total amount available for obligation, $5,000,000 is available only to complete a program begun in fiscal year 1986 for developing advanced semiconductor materials and devices, and to establish a program in parallel processing computing technology at that institution: *Provided further,* That of the total amount available for obligation, $25,000,000 shall be made available, as a grant, only to support a program of advanced compound and other semiconductor re-

$7,631,825,000

search, and related materials research at university centers of excellence for design and test of semiconductors, micro fabrication techniques (microfabritech/MARTECH), and materials technologies sciences (microfabritech/MARTECH): *Provided further,* That of the total amount available for obligation for the Strategic Technology Program, $19,040,000 shall be made available only for an innovative manufacturing technology initiative in the Strategic Computing Program of the Defense Advanced Research Projects Agency, of which $13,000,000 shall be made available only for the Concurrent Design and Assembly Science and Technology Program: *Provided further,* That of the total amount available for obligation, $10,000,000 shall be made available only for a proposed Center for Compound Semiconductor Technology, at a major Department of Energy national weapons laboratory with a demonstrated expertise in both silicon and compound semiconductor microelectronics and possessing a state-of-the-art clean room and crystal growth facilities, to perform the materials processing and instrumentation studies necessary to develop compound semiconductor technology for high-speed optoelectronics: *Provided further,* That not more than 14 percent of funds made available in this Act for the University Research Initiative Program may be obligated or expended within any one State: *Provided further,* That of the total amount available for the Strategic Defense Initiative, not less than $150,000,000 may be obligated or expended only for the Advanced Launch System (ALS) Program under Air Force management, and that of the funds made available for the ALS Program, not less than $70,000,000 shall be transferred to the National Aeronautics and Space Administration only for ALS propulsion activities: *Provided further,* That the funds appropriated by this Act for any activities associated directly or indirectly with the Advanced Launch System or any ALS variant shall be subject to the terms and conditions of section 5 of chapter II of title I of Public Law 100–71 (Supplemental Appropriations Act, 1987): *Provided further,* That of the amount available for obligation, $25,000,000 is available only for the Joint Standoff Weapons Program and may not be obligated or expended until the Secretary of Defense reports to the Committees on Appropriations of the Senate and the House of Representatives which standoff weapons will be supported with the available funds: *Provided further,* That of the amount available for obligation, $50,291,000 is available only for the Joint Remotely Piloted Vehicles (RPV) Program and may not be obligated or expended until the Secretary of Defense submits to the Committees on Appropriations of the Senate and House of Representatives an updated RPV Master Plan fully explaining his decisions as to which RPVs will be supported with the available funds, and assessing the cooperation by the military services with efforts to coordinate RPV programs and to eliminate duplication within and among these programs: *Provided further,* That none of the funds provided for the activities of the Semiconductor Manufacturing Technology consortium known as "SEMATECH" may be obligated or expended until the Secretary of Defense has entered into a memorandum of understanding with SEMATECH governing the use of such funds for research, development, test, and evaluation activities in the field of semiconductor manufacturing technology, and the Secretary of Defense submits, no later than March 31, 1988, a report to the Committees on Appropriations of the Senate and House of Representatives containing a copy of this memorandum: *Provided further,* That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100–180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows:

LightSat, $35,000,000;

University Research Initiatives, $85,000,000;
Bioenvironmental Hazards Research, $16,500,000;
High Temperature Superconductivity, $15,000,000.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Deputy Under Secretary of Defense, Developmental Test and Evaluation in the direction and supervision of developmental test and evaluation, including performance of joint developmental testing and evaluation; and administrative expenses in connection therewith; $182,116,000, to remain available for obligation until September 30, 1989. $182,116,000

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $70,221,000, to remain available for obligation until September 30, 1989. 70,221,000

[*Total, title IV, Research, Development, Test and Evaluation, new budget (obligational) authority (all definite appropriations), $37,067,316,000.*]

TITLE V

REVOLVING AND MANAGEMENT FUNDS

ARMY STOCK FUND

For the Army stock fund; $193,207,000. 193,207,000

NAVY STOCK FUND

For the Navy stock fund; $329,400,000. 329,400,000

AIR FORCE STOCK FUND

For the Air Force stock fund; $226,007,000. 226,007,000

DEFENSE STOCK FUND

For the Defense stock fund; $132,600,000. 132,600,000

[*Total, title V, Revolving and Management Funds, new budget (obligational) authority (all definite appropriations), $881,214,000.*]

TITLE VI

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986; $198,500,000, of which $97,000,000 shall remain available for obligation until September 30, 1988, $4,900,000 shall remain available for obligation until September 30, 1989, and $96,600,000 shall remain available for obligation until September 30, 1990. 97,000,000 4,900,000 96,600,000

[*Total, title VI, Chemical Agents and Munitions Destruction, Defense, new budget (obligational) authority (all definite appropriations), $198,500,000.*]

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $134,700,000. $134,700,000

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; $23,057,000. 23,057,000

[Total, title VII, Related Agencies, new budget (obligational) authority (all definite appropriations), $157,757,000.]

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 8002. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8003. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: *Provided,* That such contracts may be renewed annually.

SEC. 8004. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

SEC. 8005. The Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minor-

ity business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

SEC. 8006. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8007. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

SEC. 8008. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of eighteen thousand pounds.

SEC. 8009. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided,* That this section shall not apply to obligations for support of active duty training of civilian components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army, or to the appropriations provided in this Act for Claims, Defense.

SEC. 8010. During the current fiscal year, the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: *Provided,* That except as provided in 10 U.S.C. 2690, the foregoing authority shall not be available for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe: *Provided further,* That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

SEC. 8011. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $10,000 shall be available for the procurement of any article or item of food, clothing, tents, tarpaulins, covers, cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials, or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall

determine that satisfactory quality and sufficient quantity of any articles or items of food, individual equipment, tents, tarpaulins, covers, or clothing or any form of cotton or other natural fiber products, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided,* That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: *Provided further,* That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further,* That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: *Provided further,* That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

SEC. 8012. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by section 5901 of title 5, United States Code.

SEC. 8013. Funds provided in this Act for legislative liaison activities of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense shall not exceed $14,362,000 for the current fiscal year: *Provided,* That this amount shall be available for apportionment to the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense as determined by the Secretary of Defense: *Provided further,* That costs for military retired pay accrual shall be included within this limitation.

SEC. 8014. Of the funds made available by this Act for the services of the Military Airlift Command, $100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: *Provided,* That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil reserve air fleet.

(TRANSFER OF FUNDS)

SEC. 8015. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to

exceed $1,500,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided,* That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further,* That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority. *$1,500,000,000 (transfer authority)*

(TRANSFER OF FUNDS)

SEC. 8016. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided,* That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8017. Except as provided in 10 U.S.C. 2690, none of the funds available to the Department of Defense shall be utilized for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe.

SEC. 8018. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 days in advance to the Committees on Appropriations and Armed Services of the Senate and House of Representatives.

SEC. 8019. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 8020. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions for section 1079(a) of title 10, United States Code, shall be available for reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code.

SEC. 8021. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of $46,951,000: *Provided,* That costs for military retired pay accrual shall be included within this limitation.

SEC. 8022. None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense

articles specified in section 21(a)(1)(A) of that Act: *Provided,* That such amounts shall be credited to the Special Defense Acquisition Fund, as authorized by law, or, to the extent not so credited shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31, United States Code.

SEC. 8023. No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1983, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: *Provided,* That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: *Provided further,* That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision: *Provided further,* That enrollment standards contained in Department of Defense Directive 1215.8 for Senior Reserve Officers' Training Corps units, as revised during fiscal year 1981, may be used to determine compliance with this provision, in lieu of the standards cited above.

SEC. 8024. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1989.

SEC. 8025. None of the funds appropriated by this Act may be used to support more than 9,901 full-time and 2,603 part-time military personnel assigned to or used in the support of Morale, Welfare, and Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated September 4, 1980.

SEC. 8026. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 8027. None of the funds appropriated by this Act or heretofore appropriated by any other Act shall be obligated or expended for the payment of anticipatory possession compensation claims to the Federal Republic of Germany other than claims listed in the 1973 agreement (commonly referred to as the Global Agreement) between the United States and the Federal Republic of Germany.

SEC. 8028. During the current fiscal year, the Department of Defense may enter into contracts to recover indebtedness to the United States pursuant to section 3718 of title 31, United States Code.

SEC. 8029. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of

equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8030. None of the funds appropriated by this Act shall be available to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department of Defense is reimbursed for the costs of providing such care: *Provided,* That reimbursements for medical care covered by this section shall be credited to the appropriations against which charges have been made for providing such care, except that inpatient medical care may be provided in the United States without cost to military personnel and their dependents from a foreign country if comparable care is made available to a comparable number of United States military personnel in that foreign country.

SEC. 8031. None of the funds appropriated by this Act shall be obligated for the second career training program authorized by Public Law 96-347.

SEC. 8032. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year for the purposes of demilitarization of surplus nonautomatic firearms less than .50 caliber.

SEC. 8033. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: *Provided,* That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further,* That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further,* That no multiyear procurement contract can be terminated without 10 day prior notification to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate: *Provided further,* That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement. Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

HEMTT (for two years);

High mobility multipurpose wheeled vehicle;

HAWK missile system;

TOW II missile system: *Provided,* That a multiyear procurement contract shall not be awarded for TOW II until the Secretary of Defense has certified to the Congress that a multiyear procurement will be more economical than a second source acquisition.

SEC. 8034. None of the funds appropriated by this Act which are available for payment of travel allowances for per diem in lieu of subsistence to enlisted personnel shall be used to pay such an allowance to any enlisted member in an amount that is more than the amount of per diem in lieu of subsistence that the enlisted member is otherwise entitled to receive minus the basic allowance

for subsistence, or pro rata portion of such allowance, that the enlisted member is entitled to receive during any day, or portion of a day, that the enlisted member is also entitled to be paid a per diem in lieu of subsistence.

SEC. 8035. None of the funds appropriated by this Act shall be available to approve a request for waiver of the costs otherwise required to be recovered under the provisions of section 21(e)(1)(C) of the Arms Export Control Act unless the Committees on Appropriations have been notified in advance of the proposed waiver.

SEC. 8036. None of the funds in this Act may be used to transfer any article of military equipment or data related to the manufacture of such equipment to a foreign country prior to the approval in writing of such transfer by the Secretary of the military service involved.

(TRANSFER OF FUNDS)

SEC. 8037. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. 8038. None of the funds available to the Department of Defense during the current fiscal year shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

SEC. 8039. None of the funds appropriated by this Act may be used to appoint or compensate more than 39 individuals in the Department of Defense in positions in the Executive Schedule (as provided in sections 5312-5316 of title 5, United States Code).

SEC. 8040. Notwithstanding section 213(b) of the Joint Chiefs of Staff Reorganization Act of 1985 or any other provision of law, none of the funds in this or any other Act may be used to alter the command structure for military forces in Alaska.

SEC. 8041. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programmed to be occupied by, a (civilian) military technician to a position to be held by a person in an active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programmed to be occupied by, (civilian) military technicians of the component concerned, below 69,935: *Provided,* That none of the funds appropriated by this Act shall be available to support more than 46,890 positions in support of the Army Reserve, Army National Guard or Air National Guard occupied by, or programmed to be occupied by, persons in an active Guard or Reserve status: *Provided further,* That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard or Air National Guard.

SEC. 8042. No later than April 8, 1988, and not later than April 8 of each year thereafter, the Secretary of Defense, in consultation with the Secretary of Commerce, shall submit to the Committees on Appropriations of the Senate and House of Representatives, a report detailing: (a) the full cost of stationing United States troops overseas, including costs incurred in the United States and overseas in

connection with such stationing, (b) the overseas costs incurred in connection with operating, maintaining, and supporting United States troops overseas, including direct and indirect expenditures of United States funds in connection with such stationing, and (c) the effect of such overseas expenditures on the United States' balance-of-payments.

SEC. 8043. (a) The provisions of section 115(b)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1988 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1988, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

SEC. 8044. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department to exceed, outside the fifty States of the United States and the District of Columbia, 188,496 civilian workyears: *Provided,* That workyears shall be applied as defined in the Federal Personnel Manual Supplement 298–2, Book IV: *Provided further,* That workyears expended in dependent summer hiring programs or hiring programs for disadvantaged youth shall not be included in this workyear limitation.

(TRANSFER OF FUNDS)

SEC. 8045. Appropriations during the current fiscal year may be transferred to appropriations provided in this Act for research, development, test, and evaluation to the extent necessary to meet increased pay costs authorized by or pursuant to law, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred.

SEC. 8046. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1988 for construction or services performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided,* That the Secretary of Defense may waive the requirements of this section in the interest of national security.

SEC. 8047. None of the funds appropriated by this or any other Act for fiscal year 1988 shall be available to pay the variable housing allowance authorized members of the uniformed services under section 403a of title 37, United States Code, in a total amount in excess of $1,115,261,000 or the amount computed for the current fiscal year under section 403a(d) of such title, whichever is less: *Provided,* That any reduction in the rates of the variable housing allowance necessitated by the foregoing limitation shall be made as provided in section 403a of title 37, United States Code.

(RESCISSIONS)

SEC. 8048. (a) The following funds are hereby rescinded from the following accounts in the specified amounts:

Aircraft procurement, Army, 1986/1988, $32,000,000;
Aircraft procurement, Army, 1987/1989, $29,200,000;
Missile procurement, Army, 1986/1988, $25,100,000;
Missile procurement, Army, 1987/1989, $34,100,000;

Procurement of weapons and tracked combat vehicles, Army, 1986/1988, $41,700,000;
Procurement of weapons and tracked combat vehicles, Army, 1987/1989, $72,000,000;
Procurement of ammunition, Army, 1987/1989, $7,200,000;
Other procurement, Army, 1986/1988, $41,300,000;
Other procurement, Army, 1987/1989, $65,593,000;
Aircraft procurement, Navy, 1986/1988, $156,400,000;
Aircraft procurement, Navy, 1987/1989, $261,900,000;
Weapons procurement, Navy, 1986/1988, $161,200,000;
Weapons procurement, Navy, 1987/1989, $227,800,000;
Shipbuilding and conversion, Navy, 1984/1988, $134,100,000;
Shipbuilding and conversion, Navy, 1985/1989, $94,600,000;
Shipbuilding and conversion, Navy, 1986/1990, $20,000,000;
Shipbuilding and conversion, Navy, 1987/1991, $155,600,000;
Other procurement, Navy, 1986/1988, $32,361,000;
Other procurement, Navy, 1987/1989, $225,614,000;
Procurement, Marine Corps, 1986/1988, $47,600,000;
Procurement, Marine Corps, 1987/1989, $15,000,000;
Aircraft procurement, Air Force, 1986/1988, $278,521,000;
Aircraft procurement, Air Force, 1987/1989, $659,600,000;
Missile procurement, Air Force, 1985/1989, $40,100,000;
Missile procurement, Air Force, 1986/1988, $122,446,000;
Missile procurement, Air Force, 1987/1989, $11,500,000;
Other procurement, Air Force, 1986/1988, $58,200,000;
Procurement, Defense Agencies, 1986/1988, $31,000,000;
Procurement, Defense Agencies, 1987/1989, $75,000,000;
National Guard and Reserve Equipment, 1986/1988, $17,900,000;
Research, development, test, and evaluation, Army, 1987/1988, $14,000,000;
Research, development, test, and evaluation, Navy, 1987/1988, $67,495,000;
Research, development, test, and evaluation, Air Force, 1987/1988, $266,000,000;
Research, development, test, and evaluation, Defense Agencies, 1987/1988, $8,900,000;

(b) Section 1305 of Public Law 99-661 is amended in subsection (b) by striking "that are enacted before December 31, 1986" and inserting in lieu thereof "and/or fiscal year 1988". —$3,531,030,000 *(rescissions)*

(TRANSFER OF FUNDS)

SEC. 8049. In addition to any other transfer authority contained in this Act, amounts from working capital funds may be transferred to the Operation and Maintenance appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided,* That such transfers shall not exceed $451,036,000 for Operation and Maintenance, Army; $813,400,000 for Operation and Maintenance, Navy; $14,738,000 for Operation and Maintenance, Marine Corps; and $888,881,000 for Operation and Maintenance, Air Force.

SEC. 8050. None of the funds made available by this Act shall be used in any way for the leasing to non-Federal agencies in the United States aircraft or vehicles owned or operated by the Department of Defense when suitable aircraft or vehicles are commercially available in the private sector: *Provided,* That nothing in this section shall affect authorized and established procedures for the sale of surplus aircraft or vehicles: *Provided further,* That nothing in this section shall prohibit the leasing of helicopters authorized by section 1463 of the Department of Defense Authorization Act of 1986.

SEC. 8051. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8052. No funds available to the Department of Defense during the current fiscal year may be used to enter into any contract with a term of eighteen months or more or to extend or renew any contract for a term of eighteen months or more, for any vessel, aircraft or vehicles, through a lease, charter, or similar agreement without previously having been submitted to the Committees on Appropriations of the House of Representatives and the Senate in the budgetary process: *Provided,* That any contractual agreement which imposes an estimated termination liability (excluding the estimated value of the leased item at the time of termination) on the Government exceeding 50 per centum of the original purchase value of the vessel, aircraft, or vehicle must have specific authority in an appropriation Act for the obligation of 10 per centum of such termination liability.

SEC. 8053. None of the funds made available by this Act shall be available to operate in excess of 247 commissaries in the contiguous United States.

SEC. 8054. None of the funds provided in this Act shall be used to procure aircraft ejection seats manufactured in any foreign nation that does not permit United States manufacturers to compete for ejection seat procurement requirements in that foreign nation. This limitation shall apply only to ejection seats procured for installation on aircraft produced or assembled in the United States.

SEC. 8055. None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 8056. None of the funds appropriated by this Act shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: *Provided,* That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.

SEC. 8057. None of the funds made available by this Act shall be used to initiate full-scale engineering development of any major defense acquisition program until the Secretary of Defense has provided to the Committees on Appropriations of the House and Senate—

(a) a certification that the system or subsystem being developed will be procured in quantities that are not sufficient to warrant development of two or more production sources, or

(b) a plan for the development of two or more sources for the production of the system or subsystem being developed.

SEC. 8058. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

SEC. 8059. No more than $182,402,000 of the funds appropriated by this Act shall be available for the payment of unemployment compensation benefits.

SEC. 8060. Of the funds made available to the Department of the Air Force in this Act, not less than $11,600,000 shall be available for the Civil Air Patrol.

SEC. 8061. Funds available to the Department of Defense may be used by the Department of Defense for the use of helicopters and motorized equipment at Defense installations for removal of feral burros and horses.

SEC. 8062. (a) None of the funds appropriated by this Act shall be available to compensate foreign selling costs as described in Federal Acquisition Regulation 31.205-38(b) as in effect on April 1, 1984.

(b) Notwithstanding section 2324(e)(1)(H) of title 10, United States Code, and subsection (a) of this section, appropriations contained in this Act shall be available for, and the Secretary of Defense shall pay, reasonable costs under covered contracts incurred to promote American aerospace exports at domestic and international exhibits.

SEC. 8063. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 403(a) of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 403(b) of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided,* That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239.

SEC. 8064. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

SEC. 8065. It is the sense of the Congress that competition, which is necessary to enhance innovation, effectiveness, and efficiency, and which has served our Nation so well in other spheres of political and economic endeavor, should be expanded and increased in the provision of our national defense.

SEC. 8066. None of the funds appropriated by this Act shall be available to pay a dislocation allowance pursuant to section 407 of title 37, United States Code, in excess of one month's basic allowance for quarters.

SEC. 8067. None of the funds available to the Department of Defense shall be obligated or expended to contract out any activity currently performed by the Defense Personnel Support Center in Philadelphia, Pennsylvania: *Provided,* That this provision shall not apply after notification to the Committees on Appropriations of the House of Representatives and the Senate of the results of the cost analysis of contracting out any such activity.

SEC. 8068. Funds available for operation and maintenance under this Act, may be used in connection with demonstration projects and other activities authorized by section 1092 of title 10, United States Code.

SEC. 8069. None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section

1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act, receives an enlistment bonus under section 308a or 308f of title 37, United States Code; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans' Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member.

SEC. 8070. None of the funds appropriated by this or any other Act for the Navy may be used to carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator for Ships (EMPRESS) program unless or until the Secretary of Defense certifies to the Congress that conduct of the EMPRESS program is essential to the national security of the United States and to achieving requisite military capability for United States naval vessels, and that the economic, environmental, and social costs to the United States of conducting the EMPRESS program in the Chesapeake Bay area are far less than the economic, environmental, and social costs caused by conducting the EMPRESS program elsewhere.

SEC. 8071. Notwithstanding any other provision of law, during fiscal year 1988, the Department of Defense shall conduct an expanded pilot project of providing home health care as part of an individualized case-managed range of benefits that may reasonably deviate from otherwise payable types, amounts and levels of care, in up to four geographic areas containing no more than one-fourth of the Department's beneficiaries, for dependents entitled to health care under sections 1079 and 1086 of title 10, United States Code, with the patients selected from those with exceptionally serious, long-range, costly and incapacitating physical or mental conditions defined by the Secretary of Defense as likely to benefit from the range of demonstration benefits: *Provided,* That although the cost may be greater in a specific case, the net benefit cost to the Department of Defense shall not exceed that which could reasonably have been expected to occur in the absence of the demonstration: *Provided further,* That outside of the areas selected, the home health care pilot project as directed and implemented in fiscal years 1986 and 1987 shall be continued.

SEC. 8072. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 8073. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 8074. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate.

(TRANSFER OF FUNDS)

SEC. 8075. Upon a determination by the Secretary of Defense that such action will result in a more economical acquisition of automatic data processing equipment, funds provided in this Act under one appropriation account for the lease or purchase of such equipment may be transferred through the Automatic Data Processing Equipment Management Fund to another appropriation account in this Act for the lease or purchase of automatic data processing equipment to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: *Provided,* That within thirty days after the end of each quarter the Secretary of Defense shall report transfers made under this section to the Committees on Appropriations of the Senate and the House of Representatives: *Provided further,* That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act.

SEC. 8076. Appropriations available to the Department of Defense during the current fiscal year shall be available, under such regulations as the Secretary of Defense may deem appropriate, to exchange or furnish mapping, charting, and geodetic data, supplies or services to a foreign country pursuant to an agreement for the production or exchange of mapping, charting, and geodetic data.

SEC. 8077. None of the funds appropriated in this Act to the Department of the Army may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: *Provided,* That this limitation shall not apply to procurement of such mortars or ammunition required for testing, evaluation, type classification or equipping the Army's Ninth Infantry Division (Motorized).

SEC. 8078. Appropriations made available to the Department of Defense by this Act may be used at sites formerly used by the Department of Defense for removal of unsafe buildings or debris of the Department of Defense: *Provided,* That such removal must be completed before the property is released from Federal Government control, other than property conveyed to State or local government entities or native corporations.

SEC. 8079. Within the funds made available under title II of this Act, the military departments may use such funds as necessary, but not to exceed $2,400,000, to carry out the provisions of section 430 of title 37, United States Code.

SEC. 8080. None of the funds appropriated in this Act may be obligated or expended to carry out a program to paint any naval vessel with paint known as organotin or with any other paint containing the chemical compound tributyltin until such time as the Environmental Protection Agency certifies to the Department of Defense that whatever toxicity as generated by organotin paints as included in Navy specifications does not pose an unacceptable hazard to the marine environment: *Provided,* That the Navy may use these funds to paint aluminum-hulled craft as necessary, and, in addition, the Navy may paint no more than fifteen steel-hulled ships to conduct research as described in the "Navy Organotin Program Plan for Two Case Study Harbors".

SEC. 8081. None of the funds appropriated by this Act shall be used for the support of any nonappropriated fund activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States, unless such malt beverages and wine are procured in that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided,* That in a case in which a military installation is located in more

than one State, purchases may be made in any State in which the installation is located: *Provided further,* That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages for military installations in States which are not contiguous with another State: *Provided further,* That alcoholic beverages other than wine and malt beverages in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8082. Notwithstanding any other provision of law, funds available in this Act shall be available to the Defense Logistics Agency to grant civilian employees participating in productivity-based incentive award programs paid administrative time off in lieu of cash payment as compensation for increased productivity.

SEC. 8083. None of the funds appropriated in this Act to the Department of the Army may be obligated for depot maintenance of equipment unless such funds provide for civilian personnel strengths at the Army depots performing communications-electronics depot maintenance at an amount above the strengths assigned to those depots on September 30, 1985: *Provided,* That the foregoing limitation shall not apply to civilian personnel who perform caretaker-type functions at these installations: *Provided further,* That nothing in this provision shall cause undue reductions of other Army depots, as determined by the Secretary of the Army.

SEC. 8084. (a) The Secretary of Defense shall award to a United States firm a contract pursuant to a solicitation issued on or after the date of enactment of this Act under the Department of Defense overseas fuel procurement programs that would otherwise be awarded to a foreign firm if such United States firm—

(1) has a crude oil refining capacity of not more than 85,000 barrels a day;

(2) participates in the Department of Defense overseas fuel procurement program;

(3) agrees to the contract on the terms proposed by the foreign firm to which the contract would otherwise be awarded; and

(4) does not use processing agreements in order to fulfill the contract.

(b) This provision shall not apply if the total cost of supplies offered by the United States firm, including transportation as specified in the solicitation, would exceed the total evaluated cost to the Government if the contract were awarded to the foreign firm.

(c) This provision shall not supersede any status of forces agreement and shall not apply to acquisitions subject to the Agreement on Government Procurement of 1979 and the Trade Agreements Act of 1979 (19 U.S.C. 2501-2582) and including acquisitions from countries designated under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.).

(d) For purposes of this section, the term "United States firm" means a corporation, partnership, association, joint stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

SEC. 8085. (a) None of the funds made available by this Act to the Department of Defense may be used to procure the Federal Supply Classes of machine tools set forth in subsection (b) of this section, for use in any Government-owned facility or property under control of the Department of Defense, which machine tools were not manufactured in the United States or Canada.

(b) The procurement restrictions contained in subsection (a) shall apply to Federal Supply Classes of metalworking machinery in categories numbered 3408, 3410-3419, 3426, 3433, 3441-3443, 3446, 3448, 3449, 3460, and 3461.

(c) When adequate domestic supplies of the classifications of machine tools identified in subsection (b) are not available to meet Department of Defense requirements on a timely basis, the procurement restrictions contained in subsection (a) may be waived on a case by case basis by the Secretary of the Service responsible for the procurement.

(d) Subsection (a) shall not apply to contracts which are binding as of the date of enactment of this Act.

SEC. 8086. None of the funds appropriated or made available by this Act may be obligated for acquisition of major automated information systems which have not successfully completed oversight reviews required by Defense Department regulations: *Provided,* That none of the funds appropriated or made available by this Act may be obligated on Composite Health Care System acquisition contracts if such contracts would cause the total life cycle cost estimate of $1,100,000,000 expressed in fiscal year 1986 constant dollars to be exceeded.

SEC. 8087. Notwithstanding any other provision of law, appropriations available to the Department of Defense during the current fiscal year shall be available to make payments to a hospital that obtains 6 percent or more of its operating funds from contributions and that limits the care it provides to the treatment of heart and lung conditions: *Provided,* That payment may not be denied for a claim for otherwise reimbursable services submitted under a plan contracted for under sections 1079(a) and 1086(a) of title 10, United States Code, solely on the basis that such hospital does not impose a legal obligation, including a patient cost share or deductible, on its patients to pay for such services.

SEC. 8088. The Secretary of Defense shall take such action as necessary to assure that a minimum of 50 percent of the polyacrylonitrile (PAN) carbon fiber requirement be procured from domestic sources by 1992: *Provided,* That the annual goals to achieve this requirement be as follows: 15 percent of the total DoD requirement by 1988; 15 percent of the total DoD requirement by 1989; 20 percent of the total DoD requirement by 1990; 25 percent of the total DoD requirement by 1991; and 50 percent of the total DoD requirement by 1992.

SEC. 8089. (a) Section 9102 of the Department of Defense Appropriations Act, 1987 (as included in Public Laws 99-500 and 99-591) is repealed; (b) of the funds appropriated by this Act not more than $1,190,923,000 may be obligated for morale, welfare, and recreation activities: *Provided,* That such funds may be spent in accordance with the criteria set forth in the Report of the Assistant Secretary of Defense (Force Management and Personnel) to the Congress entitled "Reassessment of the Department of Defense Morale, Welfare and Recreation Programs" dated August 10, 1987: *Provided further,* That nonappropriated funds may be used to reimburse appropriated funds for expenses of civilian employees employed on January 1, 1987, by revenue-generating recreation activities and such reimbursed expenses shall not be included in the dollar limitation of this section.

SEC. 8090. (a) The Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Philadelphia Municipal Authority, a State authority, (hereinafter in this section referred to as the "PMA"), all right, title, and interest of the United States in and to approximately 29 acres of land located in the United States Naval Base, Philadelphia, Pennsylvania, together with any improvements thereon.

(b) The exact acreage and legal description of the lands to be conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the PMA.

(c) In consideration for any conveyance authorized under subsection (a), the PMA shall pay to the United States an amount equal to the fair market value of the property to be conveyed (as determined by the Secretary).

(d) The Secretary may require such additional terms and conditions with respect to the conveyance under this section as he considers appropriate to protect the interests of the United States.

(e) In addition to the authority provided in subsection (a) and pursuant to section 2394 of title 10, United States Code, the Secretary, upon his determination that there is an economic advantage to the Navy, is authorized to enter into a long-term contract with the PMA for the purchase of steam generated from a facility to be constructed upon the land authorized to be conveyed herein.

SEC. 8091. Notwithstanding any other provision of law, appropriations made available in this Act may be used for the procurement, product improvement and modification of the Copperhead projectile, without regard to whether or not a second production source program or contract has been established for this program if the Secretary of Defense determines that such expenditures are in the interest of the Government of the United States: *Provided,* That prior year unobligated balances of funds appropriated for Other Procurement, Navy for procurement of the five inch guided projectile (other than those required for production qualification efforts) shall be available for obligation only after the Secretary of the Navy certifies to the Committees on Appropriations of the House of Representatives and Senate that (1) procurement funding is included in the fiscal year 1989 Navy five year budget, (2) it will be competitively procured, and (3) procurement will be on a firm fixed price contract with a procurement unit cost of not to exceed $29,000 per round.

SEC. 8092. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during fiscal year 1988, limiting the amount which may be expended for personnel services, and including pay and allowances of military personnel and civilian employees, or for purposes involving personal services, or amounts which may be transferred between appropriations or authorizations available for or involving such services, are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

SEC. 8093. None of the funds appropriated or made available by this or any other Act with respect to any fiscal year may be used by any Department, agency, or instrumentality of the United States to purchase electricity in a manner inconsistent with State law governing the provision of electric utility service, including State utility commission rulings and electric utility franchises or service territories established pursuant to State statute, State regulation, or State-approved territorial agreements: *Provided,* That nothing in this section shall preclude the head of a Federal agency from entering into a contract pursuant to 42 U.S.C. 8287; nor shall it preclude the Secretary of a military department from entering into a contract pursuant to 10 U.S.C. 2394 or from purchasing electricity from any provider when the utility or utilities having applicable State-approved franchise or other service authorizations are found by the Secretary to be unwilling or unable to meet unusual standards for service reliability that are necessary for purposes of national defense.

SEC. 8094. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 8095. Funds appropriated by this Act for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.

SEC. 8096. The Secretary of Defense shall submit a quarterly report of cumulative reprogrammings from any project or program in excess of an initial $10,000,000 in total for procurement and an initial $4,000,000 in total for research and development. The initial report shall cover the quarter ending March 31, 1988, and include funds in this and prior appropriation Acts.

SEC. 8097. (a) The Secretary of Defense shall conduct through the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) a demonstration project on the treatment of alcoholism designed to compare the use of chemical aversion therapy with the use of other treatments. At the conclusion of the demonstration project, the Secretary shall submit to the Committees on Appropriations and Armed Services of the Senate and House of Representatives a report on the results of the project: *Provided,* That the demonstration project shall be conducted at only one location: *Provided further,* That coverage for chemical aversion therapy under this demonstration project is extended to those beneficiaries referred for such treatment by a physician, psychiatrist or psychologist recognized as an authorized provider under CHAMPUS.

(b) Until the report required by subsection (a) is submitted, the Secretary of Defense shall ensure that coverage of beneficiaries under section 1079(a) or 1086(a) of title 10, United States Code, shall continue under the provisions of subsection (a).

SEC. 8098. Notwithstanding the provisions of section 2401, title 10, United States Code, or of any other provision of law which would limit lease or charter terms to less than five years, the Navy is authorized to enter into agreements to construct and charter up to six clean product tankers of adequate cargo capacity to replace the SEALIFT-class tankers now in service. Tankers constructed under the terms of this section must be constructed in a shipyard of the United States in accordance with section 10-(d), title 41, United States Code.

SEC. 8099. The Secretary of the Army, as Executive Agent for the Department of Defense, may authorize activities on the part of the Armed Forces in celebration of the Bicentennial of the Constitution, and in support of Congressional Bicentennial activities. Such sums as are necessary to pay the expenses of these activities shall be made available from funds otherwise appropriated to the Department of Defense, except that such funds shall not be counted against the limitation on funds available for public affairs or legislative liaison activities of the Department of Defense.

SEC. 8100. Upon a certification by the Chief, National Guard Bureau, to the Committees on Appropriations and Armed Services of the Senate and House of Representatives that complete delivery of 530 M939A2 trucks cannot be accomplished by February 1, 1989, and that the total cost of a contract for M939A1 trucks will not exceed the cost of a contract for M939A2 trucks for the same number of trucks to be acquired under the M939A1 contract, appropriations made in this Act, or in the Department of Defense Appropriations Acts for fiscal year 1986 and for fiscal year 1987 under the heading "National Guard and Reserve Equipment", may be used to acquire M939A1 trucks.

SEC. 8101. None of the funds appropriated by this Act shall be available for the operation and maintenance of contractor-owned, contractor-operated primary health care facilities unless the Department of Defense Inspector General agrees to conduct an inspection, audit and evaluation of these clinics.

SEC. 8102. Funds provided by this Act for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) may be used by the Office of CHAMPUS to conduct a pilot project to provide program modifications and efficiencies by amending up to two existing fiscal intermediary contracts: *Provided,* That the Secretary of Defense conducts a separate health care demonstration project, if it is in the best interests of the Government, in the New Orleans, Louisiana area (the area described in Solicitation Number MDA903-87-R-0047) that uses a managed health care network, including health care enrollment (as provided for in section 1099, title 10, United States Code): *Provided further,* That the Secretary shall implement this demonstration project no later than September 30, 1988.

SEC. 8103. Notwithstanding any other provision of law, the Secretary of the Navy may use funds appropriated to charter ships to be used as auxiliary minesweepers providing that the owner agrees that these ships may be activated as Navy Reserve ships with Navy Reserve crews used in training exercises conducted in accordance with law and policies governing Naval Reserve forces.

SEC. 8104. (a) None of the funds in this Act may be used to award a contract for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Reform Initiative that exceeds the total fiscal year 1987 costs for CHAMPUS care provided in California and Hawaii, plus normal and reasonable adjustments for price and program growth.

(b) Notwithstanding section 725 of Public Law 100-180, the preemption provisions of title 10, United States Code, chapter 55, section 1103, shall not be limited to contractual provisions relating to coverage of benefits, but shall apply to any and all contracts entered into pursuant to Solicitation Number MDA-903-87-R-0047 and shall preempt any and all State and local laws or regulations which relate to health insurance or to prepaid health care plans.

SEC. 8105. None of the funds appropriated by this Act may be used by the Defense Logistics Agency to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: *Provided,* That savings that result from this provision are represented as such in future budget proposals.

SEC. 8106. Appropriations made available in this Act by the appropriation "Operation and maintenance, Army" shall be available for logistical support and personnel services required to complete Department of Defense support for the Tenth International Pan American Games.

SEC. 8107. Of funds identified in chapter IIIA, section 5(b) of the Urgent Supplemental Appropriations Act, 1986 (Public Law 99-349), the $18,500,000 made available for purchase of an HC-130 tanker and the $12,000,000 made available for purchase of an aerostat radar system shall be available only for procurement and installation, including site preparations, of aerostat radars.

SEC. 8108. None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of the enactment of this Act, enlists in the armed services for less than three years; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member: *Provided,* That these limitations shall not apply to members in combat arms skills.

SEC. 8109. Of the funds made available in this Act, the Department of Defense shall transfer $1,342,000 to the Bureau of Land Management appropriation account for fire management to be used for repair and replacement of materials destroyed by fire, to be merged with, and such funds are to be awarded for the same purposes and for the same time period as the appropriation to which transferred.

SEC. 8110. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Administrator of Veterans Affairs from the Department of Defense Education Benefits Fund when the time spent as a full-time student is credited toward completion of a service commitment: *Provided,* That this provision shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further,* That this provision applies to active components of the Army.

SEC. 8111. Of the funds made available in this Act for military personnel appropriations, up to $2,800,000 may be available for the purposes of section 638 of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180).

SEC. 8112. Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability and the planned upgrade of this capability: *Provided,* That none of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the Armed Services and Appropriations Committees of Congress that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8113. The Secretary of Defense shall take such action as may be necessary to implement at the earliest practicable date and with funds provided for such purpose by section 8110 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190; 99 Stat. 1222), the program proposed by the Department of Defense in a letter dated August 30, 1985, from the Assistant Secretary of Defense for Acquisition and Logistics to rehabilitate and convert current steam generating plants at defense facilities in the United States to coal burning facilities in order to achieve a coal consumption target of 1,600,000 short tons of coal per year (including at least 300,000 short tons of anthracite coal) above current consumption levels at Department of Defense facilities in the United States by fiscal year 1994: *Provided,* That such action shall be subject to the use of only the most cost effective fuel system in the construction of new plants or the conversion of existing plants: *Provided further,* That during fiscal year 1988, the amount of anthracite coal purchased by the Department shall be at least 300,000 short tons: *Provided further,* That the funds identified in section 8110 of Public Law 99-190 shall continue to be made available until expended to be used on a non-reimbursable basis for the administrative costs of this program.

SEC. 8114. For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 1988, the accompanying House and Senate Committee reports, the conference report and accompanying

joint explanatory statement of the managers of the Committee of Conference, the related classified annexes, and the P-1 and R-1 budget justification documents as subsequently modified by Congressional action: *Provided, however,* that the following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act.

SEC. 8115. (a) Of the funds appropriated to the Army, $90,895,000 shall be available only for the Reserve Component Automation System (RCAS): *Provided,* That none of these funds can be expended:

(1) except as approved by the Chief of the National Guard Bureau;

(2) unless RCAS resource management functions are performed by the National Guard Bureau;

(3) unless the RCAS contract source selection official is the Chief of the National Guard Bureau;

(4) to pay the salary of an RCAS program manager who has not been selected and approved by the Chief of the National Guard Bureau and chartered by the Chief of the National Guard Bureau and the Secretary of the Army;

(5) unless the Program Manager (PM) charter makes the PM accountable to the source selection official and fully defines his authority, responsibility, reporting channels and organizational structure;

(6) to pay the salaries of individuals assigned to the RCAS program management office, source selection evaluation board, and source selection advisory board unless such organizations are comprised of personnel chosen jointly by the Chiefs of the National Guard Bureau and the Army Reserve;

(7) to award a contract for development or acquisition of RCAS unless such contract is competitively awarded under procedures of OMB Circular A-109 for an integrated system consisting of software, hardware, and communications equipment and unless such contract precludes the use of Government furnished equipment, operating systems, and executive and applications software; and

(8) unless RCAS performs its own classified information processing.

(b) None of the funds appropriated in this Act are available for procurement of Tactical Army Combat Service Support Computer Systems (TACCS) unless at least fifty percent of the TACCS computers procured with Army fiscal year 1988 funds are provided to the Reserve Component.

(c) None of the funds appropriated in this Act are available for procurement of mini- and micro-computers for the Army Reserve Component until the RCAS contract is awarded.

SEC. 8116. Whereas a verifiable treaty eliminating United States and Soviet medium- and short-range nuclear ballistic missiles in Europe would enhance United States and European security;

Whereas the Congress supports the President's goal of reducing United States and Soviet conventional forces in Europe and reducing United States and Soviet strategic nuclear forces;

Whereas it is important the Congress and the President be in agreement on United States national security goals and objectives in order for the United States to be in the strongest possible position to negotiate with the Soviet Union future reductions in conventional and strategic nuclear forces;

Whereas the Congress strongly opposes the undercutting of these arms reduction negotiations by either the United States or the Soviet Union through unnecessary military initiatives or counterproductive arms control proposals;

Whereas no decision has been made on the development or deployment of strategic defenses;

Therefore, it is the sense of the Congress that—

(1) in order to maintain the basis for strong deterrence, the Strategic Defense Initiative (SDI) should be a long-term and robust research program to provide the United States with expanded options for responding to a Soviet breakout from the 1972 Anti-Ballistic Missile Treaty and to respond to other future Soviet arms initiatives that might pose a grave threat to United States national security;

(2) by expanding potential United States strategic options the SDI research program can enhance United States leverage in the United States-Soviet arms reduction negotiations and serve as a safeguard for ensuring that negotiated agreements are kept;

(3) future research plans and budgets for SDI must be established using realistic projections of available resources in the overall defense budget and must not undercut other important Department of Defense programs; and

(4) in matching research priorities against available resources, the primary emphasis of SDI should be to explore promising new technologies, such as directed energy technologies, which might have long-term potential to defend against a responsive Soviet offensive nuclear threat.

SEC. 8117. From funds available in this Act for Research, Development, Test, and Evaluation, Army, the Army shall expeditiously and without further delay complete development and operational testing of the M72E4, type classify the weapon, and acquire a technical data package.

SEC. 8118. None of the funds provided for the Department of Defense in this Act may be obligated or expended for fixed price-type contracts in excess of $10,000,000 for the development of a major system or subsystem unless the Under Secretary of Defense for Acquisition determines, in writing, that program risk has been reduced to the extent that realistic pricing can occur, and that the contract type permits an equitable and sensible allocation of program risk between the contracting parties: *Provided,* That the Under Secretary may not delegate this authority to any persons who hold a position in the Office of the Secretary of Defense below the level of Assistant Secretary of Defense: *Provided further,* That the Under Secretary report to the Committees on Appropriations of the Senate and House of Representatives in writing, on a quarterly basis, the contracts which have obligated funds under such a fixed price-type developmental contract.

SEC. 8119. Monetary limitations on the purchase price of a passenger motor vehicle shall not apply to vehicles purchased for intelligence activities conducted pursuant to Executive Order 12333 or successor orders.

SEC. 8120. Not to exceed $25,000,000 of the funds appropriated in this Act to the Department of the Army may be used to fund the construction of classified military projects within the Continental United States, including design, architecture, and engineering services.

SEC. 8121. From the amounts appropriated in this Act, funds shall be available for Naval Air Rework Facilities to perform manufacturing in order to compete for production contracts of Defense articles: *Provided,* That the Navy shall certify that successful bids between Naval Air Rework Facilities and private companies for such production contracts include comparable estimates of all direct and indirect costs: *Provided further,* That competitions conducted under this authority shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, section 307 of the

Department of Defense Authorization Act, 1985, or Office of Management and Budget Circular A-76.

SEC. 8122. Nothing in section 102d(1) of Public Law 100-178, section 601(b)(2)(A) of Public Law 99-433 (100 Stat. 1065), or section 601(d) of Public Law 99-433 (100 Stat. 1065) shall be construed as requiring or suggesting that the Secretary of Defense avoid allocating personnel reductions to the Defense Intelligence Agency.

SEC. 8123. Notwithstanding any other provision of law, the Department of Defense may waive Federal regulations concerning wage rates for authorized civilian employees hired for certain health care occupations: *Provided,* That only those occupations cited in the June 30, 1988, report to be submitted by the Assistant Secretary of Defense for Health Affairs shall be covered by this provision.

SEC. 8124. None of the funds available to the Department of Defense are available for obligation or expenditure to procure either directly or indirectly any goods or services from Toshiba Corporation or any of its subsidiaries, or from Kongsberg Vapenfabrik or any of its subsidiaries: *Provided,* That the Secretary of Defense may, on a case-by-case basis, waive the preceding prohibition upon a written determination to the Committees on Appropriations of the House of Representatives and the Senate that compliance would be detrimental to United States national security interests: *Provided further,* That the above provision shall not be effective until ninety days after enactment of this Act.

SEC. 8125. (a) None of the funds available to the Department of Defense may be used for procurement of welded shipboard anchor chain and mooring chain (of all types four or less inches in diameter) manufactured outside of the United States or Canada.

(b) When adequate domestic supplies of welded shipboard anchor chain and mooring chain (of all types four or less inches in diameter) are not available to meet Department of Defense requirements on a timely basis, the procurement restrictions contained in subsection (a) may be waived on a case-by-case basis by the Secretary of the Service responsible for the procurement.

(c) Subsection (a) shall not apply to contracts which are binding as of the date of enactment of this Act.

SEC. 8126. Except as provided in section 2690 of title 10, United States Code, none of the funds available to the Department of Defense may be used for the consolidation or conversion of heating plants at defense facilities in Europe from coal to district heating distribution systems: *Provided,* That this provision shall not apply to facilities for which consolidation or construction contracts were entered into before September 30, 1987.

SEC. 8127. During the current fiscal year, notwithstanding any other provision of law, the Department of Defense shall exclude from diagnosis related groups regulations: (a) inpatient hospital services in a hospital whose patients are predominantly under 18 years of age and (b) such services in any hospital with respect to (1) discharges involving newborns and infants who are less than 29 days old upon admission (other than discharges classified to diagnosis related group 391), (2) discharges involving pediatric bone marrow transplants, (3) discharges involving children who have been determined to be HIV seropositive, and (4) discharges involving pediatric cystic fibrosis: *Provided,* That the Department of Defense shall ensure that beneficiaries not be required to pay more in cost-shares under the foregoing exclusions than those which would have been imposed if the diagnosis related group system had been instituted: *Provided further,* That notwithstanding any other provision of law, appropriations available to the Department of Defense may be used to pay the difference between the cost-shares paid by beneficiaries under the foregoing and the billed charges for services covered by this provision.

SEC. 8128. None of the funds available for programs administered by the Assistant Secretary of the Army for Civil Works in this or any other Act hereafter are available to continue, initiate, review, complete, or approve A-76 studies on contracting out for any reservoir area in the State of Mississippi administered by the Corps of Engineers unless specified in appropriation bills.

SEC. 8129. None of the funds in this Act or any other funds available to commissaries and exchanges may be used to purchase or sell any Toshiba products in those commissaries or exchanges: *Provided,* That the above provision shall not be effective until ninety days after enactment of this Act.

(TRANSFER OF FUNDS)

SEC. 8130. Of the funds appropriated in this Act and from funds appropriated to the Department of Defense in prior years that remain available for obligation, $316,000,000 may be transferred from any appropriation, except appropriations made available to the Department of the Army, to any appropriate Air Force appropriation, and thirty legislative days after notification of such transfers to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate and without objection of the Committees within that thirty legislative day period, such transfers may be used for activities related to the space launch recovery program, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred: *Provided,* That none of the funds transferred pursuant to this paragraph may be obligated or expended for the space launch recovery program until the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration have submitted the plan required by section 5(a) of chapter II of title I of Public Law 100-71 (101 Stat. 398): *Provided further,* That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act.

SEC. 8131. Notwithstanding any other provision of law, the Secretary of the Air Force shall, from existing prior year funds, make available the additional $18,000,000 necessary to complete the $28,700,000 development and qualification program of the next generation trainer engine (F-109) over the next three-year period: *Provided,* That none of the funds may be obligated or expended until the Air Force submits a report to the Committees on Appropriations which identifies the specific Air Force aircraft on which the F-109 engine will be used.

(TRANSFER OF FUNDS)

SEC. 8132. Notwithstanding any other provision of law, the Department of Defense may transfer prior year unobligated balances and funds appropriated in this Act to the operation and maintenance appropriations of the reserve components for the purpose of providing military technician pay the same exemption from sequestration set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) as that granted the other military personnel accounts: *Provided,* That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amounts reprogrammed to the operation and maintenance appropriations of the reserve components do not exceed the amounts sequestered under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119): *Provided further,* That the authority to

make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act: *Provided further,* That the Secretary of Defense may proceed with such transfer after notifying the Appropriations Committees of the House of Representatives and the Senate twenty legislative days before any such transfer of funds under this provision and if no objection is expressed within that twenty legislative day period.

(TRANSFER OF FUNDS)

SEC. 8133. Funds appropriated in this Act and from funds appropriated to the Department of Defense in prior years that remain available for obligation, $100,000,000 may be transferred from any such appropriation to Aircraft Procurement, Air Force, for the procurement of six replacement aircraft for the Flight Inspection Program, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred: *Provided,* That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act.

SEC. 8134. None of the funds appropriated by this Act may be used to carry out full-scale engineering, development or deployment on the project under the Strategic Defense Initiative designated on September 1, 1987, as the Space-Based Interceptor (SBI) Project.

SEC. 8135. Sections 4, 431, and 634 of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) are hereby repealed.

SEC. 8136. Notwithstanding any other provision of law, during fiscal year 1988, the Secretary of Defense shall make available to the United States Coast Guard without reimbursement not less than $105,000,000 in supplies, fuel, training assistance, and other operational support, exclusive of administrative costs, including $5,000,000 for the completion of development of a low-frequency, lightweight, portable sonar for the Coast Guard's antisubmarine warfare mission requirements, in addition to such assistance as would ordinarily be provided in the absence of this provision: *Provided,* That such items shall be deemed Department of Defense expenditures for Coast Guard defense related activities: *Provided further,* That from funds provided for "Aircraft Procurement, Navy, fiscal year 1987", $33,000,000 shall be available for procurement and installation of APG-66 radar and other sensors for HU-25 aircraft and seabased aerostat radar systems in support of the Coast Guard Drug Interdiction Program.

SEC. 8137. The President shall submit in his budget proposals to the Congress for fiscal year 1989 an arrangement for the Ready Reserve Fleet in which funding and program responsibilities are consolidated in a single Federal organization.

SEC. 8138. It is the sense of the Congress that the Secretary of Defense should name one of the new nuclear aircraft carriers appropriated in fiscal year 1988 the U.S.S. JOHN C. STENNIS.

(TRANSFER OF FUNDS)

SEC. 8139. In addition to the amounts appropriated or otherwise made available in this Act, $875,000,000 is appropriated to fully fund the military pay raise with any remaining balance of the appropriation available to fund the civilian pay raise as authorized by law: *Provided,* That such amounts shall be transferred and merged with "Military Personnel" and "Operation and Maintenance" appropriations accounts as applicable and that such transfer authority shall be in addition to that provided elsewhere in this Act: *Provided further,* That such sums as may be necessary for authorized pay raise costs in excess of this appropriation shall be accommodated within the levels appropriated in this Act. $875,000,000

SEC. 8140. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 8141. No naval vessel or any vessel owned and operated by the Department of Defense homeported in the United States may be overhauled, repaired, or maintained in a foreign owned and operated shipyard located outside of the United States, except for voyage repairs.

SEC. 8142. (a) Section 38(b)(1) of the Arms Export Control Act (22 U.S.C. 2778(b)(1)) is amended—

(1) by inserting "(A)" before "As prescribed in"; and

(2) by adding at the end the following:

"(B) The prohibition under such regulations required by the second sentence of subparagraph (A) shall not extend to any military firearms (or ammunition, components, parts, accessories, and attachments for such firearms) of United States manufacture furnished to any foreign government by the United States under this Act or any other foreign assistance or sales program of the United States if—

"(i) such firearms are among those firearms that the Secretary of the Treasury is, or was at any time, required to authorize the importation of by reason of the provisions of section 925(e) of title 18, United States Code (including the requirement for the listing of such firearms as curios or relics under section 921(a)(13) of that title); and

"(ii) such foreign government certifies to the United States Government that such firearms are owned by such foreign government.".

(b)(1) Except as provided in paragraphs (2) and (3), subparagraph (B) of section 38(b)(1) of the Arms Export Control Act, as added by subsection (a), shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

(2)(A) Such subparagraph shall take effect on the date of the enactment of this Act with respect to any military firearms or ammunition (or components, parts, accessories and attachments for such firearms) with respect to which an import permit was issued by the Secretary of the Treasury on or after July 1, 1986, irrespective of whether such import permit was subsequently suspended, revoked, or withdrawn by the Secretary of the Treasury based on the application of section 38(b)(1) of the Arms Export Control Act as in effect on the day before the date of the enactment of this Act.

(B) In the case of an import permit described in subparagraph (A) which was suspended, revoked, or withdrawn by the Secretary of the Treasury during the period beginning on July 1, 1986, and ending on the date of the enactment of this Act under the conditions described in such subparagraph, such import permit shall be reinstated and reissued immediately upon the enactment of this Act, and in any event not later than ten days after the date of the enactment of this Act.

(3) During the period preceding the revision of regulations issued under section 38(b)(1) of the Arms Export Control Act to reflect the provisions of subparagraph (B) of such section, as added by subsection (a), such regulations may not be applied with respect to matters covered by paragraph (2) of this subsection so as to prohibit or otherwise restrict the importation of firearms described in that paragraph or in any other manner inconsistent with that paragraph, notwithstanding that such regulations have not yet been so revised: *Provided,* That this section shall not take effect if during the twenty day period beginning on the date of enactment of this

section the Secretary of State, the Secretary of Defense, or the Secretary of the Treasury notifies Congress that he has an objection to the intent of this section: *Provided further,* That the Attorney General shall, within the period of time stated in the first proviso, submit a certification to Congress indicating whether the enactment of this section will interfere with any ongoing criminal investigation with respect to this section. If a certification of criminal investigative interference or an objection to the intent of this section is made, as herein provided, no permit shall be issued to anyone.

SEC. 8143. (a) EXTENSION OF PROGRAM.—Section 516(a) of the Foreign Assistance Act of 1961 is amended in the first sentence by striking out "and 1988" and inserting in lieu thereof ", 1988, and 1989,".

(b) MAJOR NON-NATO ALLIES.—Section 516(a) of that Act is amended in the first sentence by inserting ", and to major non-NATO allies on the southern and southeastern flank of NATO which are eligible for United States security assistance," after "military structure".

(c) EXCESS DEFENSE ARTICLES.—Section 516 of that Act is amended—

(1) in subsection (a)—

(A) in the first sentence, by inserting "excess" before "defense articles", and

(B) in the second sentence, by inserting "excess defense" before "articles"; and

(2) in the text of subsection (b) preceding paragraph (1), in subsection (c), and in subsection (d), by inserting "excess" before "defense articles".

SEC. 8144. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States Government may be obligated or expended during fiscal year 1988 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 104 of the Intelligence Authorization Act (Public Law 100-178) for fiscal year 1988.

This Act may be cited as the "Department of Defense Appropriations Act, 1988".

[*Total, title VIII, General Provisions:*

[*New budget (obligational) authority (all definite appropriations) (net)* ..... *—$2,656,030,000.*]

[*Appropriations* ..... *875,000,000.*]

[*Rescissions* ..... *—3,531,030,000.*]

[*Transfer authority* ..... *1,500,000,000.*]

[*Total, Department of Defense Appropriations, 1988:*

[*New budget (obligational) authority (all definite appropriations) (net)* ..... *$275,451,818,000.*]

[*Appropriations* ..... *278,982,848,000.*]

[*Rescissions* ..... *—3,531,030,000.*]

[*Transfer authority* ..... *1,500,000,000.*]

(c) Such amounts as may be necessary for programs, projects or activities provided for in the District of Columbia Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows: *(District of Columbia Appropriations Act, 1988)*

AN ACT

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I

FISCAL YEAR 1988 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1988, $430,500,000, which shall not be subject to apportionment and shall be paid to the District of Columbia by the Secretary of the Treasury within 15 days after the enactment of this joint resolution: *Provided,* That none of these funds shall be made available to the District of Columbia until the number of full-time uniformed officers in permanent positions in the Metropolitan Police Department is at least 3,880, excluding any such officer appointed after August 19, 1982, under qualification standards other than those in effect on such date. $430,500,000

FEDERAL PAYMENT FOR WATER AND SEWER SERVICES

For payment to the District of Columbia for the fiscal year ending September 30, 1988, in lieu of reimbursement for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government, $40,500,000, as authorized by the Act of May 18, 1954, as amended (D.C. Code, secs. 43-1552 and 43-1612): *Provided,* That $7,900,000 of this amount shall be paid to the District government by the Secretary of the Treasury immediately upon enactment of this Act for fiscal years 1986 and 1987 adjustments: *Provided further,* That $32,600,000 shall be paid to the District government by the Secretary of the Treasury in four equal quarterly payments of $8,150,000 each, with each payment to be made on the first day of the beginning of each quarter without further justification by the District of Columbia government. 40,500,000

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $50,000,000. 50,000,000

TRANSITIONAL PAYMENT FOR SAINT ELIZABETHS HOSPITAL

For a Federal contribution to the District of Columbia, as authorized by the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (98 Stat. 3369; Public Law 98-621), $29,000,000. 29,000,000

CRIMINAL JUSTICE INITIATIVE

(INCLUDING RESCISSION)

Of funds appropriated under this head in Public Law 99-500 and Public Law 99-591 for the design and construction of a prison in the District of Columbia, $20,000,000 are rescinded. −20,000,000
(rescission)

For the design and construction of a prison within the District of Columbia, to become available October 1, 1988, $20,000,000: *Provided,* That no funds are available for construction on the South part of Square E–1112 as recorded in Subdivision Book 140, Page 199 in the Office of the Surveyor of the District of Columbia unless previously approved by the Committees on Appropriations of the Senate and House of Representatives: Provided further, That the $50,000,000 herein and heretofore made available for the prison project shall remain in the United States Treasury and shall be transferred to the District of Columbia government only to the extent that outstanding obligations are due and payable to entities other than agencies and organizations of the District of Columbia government, the payments to such agencies and organizations may be made only in reimbursement for amounts actually expended in furtherance of the design and construction of the prison. $20,000,000 *(advance appropriation, fiscal year 1989)*

[*Total, Federal funds to the District of Columbia (net)* ..... *$550,000,000.*]
[*Appropriations, fiscal year 1988 (net)*..... *530,000,000.*]
[*Appropriations* ..... *550,000,000.*]
[*Rescission* ..... *−20,000,000.*]
[*Advance appropriation, fiscal year 1989* ..... *20,000,000.*]

Division of Expenses

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

Governmental Direction and Support

Governmental direction and support, $114,328,000: *Provided,* That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further,* That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further,* That notwithstanding any other provision of law, there is hereby appropriated $5,417,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, of which $763,000 shall be derived from the general fund and not to exceed $4,654,000 shall be derived from the earnings of the applicable retirement funds: *Provided further,* That the District of Columbia Retirement Board shall provide to the Congress and the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further,* That the District of Columbia Retirement Board shall provide the Mayor for transmittal to the Council of the District of Columbia an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report: *Provided further,* That of the $150,000 appropriated for fiscal year 1988 for Admission to Statehood, $75,000 shall be for the Statehood Commission and $75,000 shall be for the Statehood Compact Commission: *Provided further,* That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further,* That no part of these funds shall be used for lobbying to support or defeat legislation pending before Congress or any State legislature. *(114,328,000)*

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $140,467,000: *Provided,* That the District of Columbia Housing Finance Agency established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further,* That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Agency and shall be repaid to the District of Columbia only from available operating revenues of the Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further,* That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia: *Provided further,* That up to $270,000 within the 15 percent set-aside for special programs within the Tenant Assistance Program shall be targeted for the single room occupancy initiative. *($140,467,000)*

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of not to exceed 135 passenger-carrying vehicles for replacement only (including 130 for police-type use and five for fire-type use) without regard to the general purchase price limitation for the current fiscal year, $655,524,000: *Provided,* That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles, and the Fire Department is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further,* That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further,* That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1988, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1975: *Provided further,* That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1988, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1985: *Provided further,* That $50,000 of any appropriation available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: *Provided further,* That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can *(655,524,000)*

promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further,* That the District of Columbia shall also take steps to publicize the availability of that service among the residents of the area surrounding the Lorton prison: *Provided further,* That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County and Prince William County, Virginia, for expenses incurred by the counties during fiscal year 1988 in relation to the Lorton prison complex. Such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison: *Provided further,* That none of the funds appropriated by this Act may be used to implement any plan that includes the closing of Engine Company 3, located at 439 New Jersey Avenue, Northwest: *Provided further,* That none of the funds provided by this Act may be used to implement District of Columbia Board of Parole notice of emergency and proposed rulemaking as filed with the District of Columbia Register July 25, 1986: *Provided further,* That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services which are performed in emergencies by the Guard in a militia status and which are requested by the Mayor, in amounts which shall be jointly determined and certified as due and payable for such services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further,* That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and their availability shall be deemed as constituting payment in advance for the emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $570,594,000, to be allocated as follows: $413,567,000 for the public schools of the District of Columbia, of which $600,000 shall be paid within 15 days of the enactment of this Act directly to the District of Columbia Public Schools Foundation for entry level career employment programs, together with $200,000 which shall be paid directly to the Foundation when the Foundation certifies that an equal amount of private contributions has been received; $62,318,000 for the District of Columbia Teachers' Retirement Fund; $71,667,000 for the University of the District of Columbia; $17,047,000 for the Public Library; $3,544,000 for the Commission on the Arts and Humanities; $2,100,000 for the District of Columbia School of Law; and $351,000 for the Educational Institution Licensure Commission: *Provided further,* That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further,* That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1988, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area. *($570,594,000)*

HUMAN SUPPORT SERVICES

Human support services, $695,591,000: *Provided,* That $14,700,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation. *($695,591,000)*

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $213,654,000, of which not to exceed $4,141,000 shall be available for the School Transit Subsidy: *Provided,* That this appropriation shall not be available, prior to October 1, 1988, for collecting ashes or miscellaneous refuse from hotels and places of business or from apartment houses with four or more apartments, or from any building or connected group of buildings operating as a rooming or boarding house as defined in the housing regulations of the District of Columbia. *(213,654,000)*

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $6,758,000: *Provided,* That the Convention Center Board of Directors, established by section 3 of the Washington Convention Center Management Act of 1979, effective November 3, 1979 (D.C. Law 3-36; D.C. Code, sec. 9-602), shall reimburse the Auditor of the District of Columbia for all reasonable costs for performance of the annual convention center audit. *(6,758,000)*

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with an Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); the Departments of Labor, and Health, Education and Welfare Appropriation Act of 1955, approved July 2, 1954 (68 Stat. 443; Public Law 83-472); section 1 of an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of an Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); and section 723 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note); and section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act, approved October 13, 1977 (91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, $220,905,000. *(220,905,000)*

REPAYMENT OF GENERAL FUND DEFICIT

For the purpose of reducing the $224,881,000 general fund accumulated deficit as of September 30, 1986, $20,000,000 of which not less than $19,118,000 shall be funded and apportioned by the Mayor from amounts otherwise available to the District of Columbia government (including amounts appropriated by this Act or reve- *(20,000,000)* *(−19,118,000)*

nues otherwise available, or both): *Provided,* That if the Federal payment to the District of Columbia for fiscal year 1988 is reduced pursuant to an order issued by the President under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, approved December 12, 1985), the percentage (if any) by which the $20,000,000 set aside for repayment of the general fund accumulated deficit under this appropriation title is reduced as a consequence shall not exceed the percentage by which the Federal payment is reduced pursuant to such order.

[*Total, repayment of general fund deficit (net), $882,000.*]

SHORT-TERM BORROWINGS

For the purpose of funding interest related to borrowing funds for short-term cash needs, $3,750,000. *($3,750,000)*

OPTICAL AND DENTAL BENEFITS

For optical and dental costs for nonunion employees, $1,489,000. *(1,489,000)*

ENERGY ADJUSTMENT

The Mayor shall reduce authorized energy appropriations and expenditures within object class 30a (energy) in the amount of $1,200,000, within one or several of the various appropriation headings in this Act. *(−1,200,000) (energy adjustment)*

[*Total, operating expenses, general fund, $2,622,742,000.*]

CAPITAL OUTLAY

For construction projects, $272,526,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, secs. 43-1512 to 43-1519); the District of Columbia Public Works Act of 1954, as approved May 18, 1954 (68 Stat. 101; Public Law 83-364); an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, secs. 9-219 and 47-3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85-692; D.C. Code, sec. 40-805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91-143; D.C. Code, secs. 1-2451, 1-2452, 1-2454, 1-2456, and 1-2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided,* That $15,353,000 shall be available for project management and $13,134,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor, and that the funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further,* That $4,000,000 of the $272,526,000, shall be financed from general fund operating revenues for pay-as-you-go capital projects for the Department of Public Works: *Provided further,* That $2,664,000 of the $272,526,000 shall be for the purchase of snow removal equipment of which $703,000 shall be financed from general fund operating revenues: *Provided further,* *(272,526,000)*

That $26,919,000 of the $272,526,000, shall be available to the Board of Education of the District of Columbia for the construction of new roofs for various school buildings, for boiler, window, door, and air conditioning replacements in various school buildings, for room conversions, erosion control, and general improvement projects at various school buildings, for an Administration Building site study and for the Sharpe Health School Modernization Project with $21,109,000 of these funds available for construction, $2,387,000 available for architectural design, $1,423,000 available for project management, and $2,000,000 for equipment: *Provided further,* That $10,000,000 appropriated in the fiscal year ending September 30, 1986, and $10,000,000 appropriated in the fiscal year ending September 30, 1987, shall be available to the Board of Education of the District of Columbia for asbestos abatement and removal, with $17,000,000 available for construction, $1,500,000 available for architectural design, and $1,500,000 for project management: *Provided further,* That notwithstanding the last sentence of section 405(b) of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1423; Public Law 93-471; D.C. Code, sec. 31-1535(b)), the Board of Education of the District of Columbia may procure contracts for the construction of new roofs for various school buildings, for boiler, window, door, and air conditioning replacements in various school buildings, for room conversions, erosion control and general improvement projects at various school buildings, for asbestos abatement, for an Administration Building site study, and for the Sharpe Health School Modernization Project: *Provided further,* That $12,819,000 of the $272,526,000 shall be available to the University of the District of Columbia for the construction of an underground parking extension at the Van Ness campus, for architectural barrier removal, for heating, ventilation, and air conditioning and partition modification, for a security system evaluation, and for the design and project management of the Mount Vernon Square campus: *Provided further,* That $500,000 of the $272,526,000 shall be available to the District of Columbia School of Law for general repair, rehabilitation, and improvement projects: *Provided further,* That all such funds shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1989, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1989: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $169,013,000, of which $31,720,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects. *($169,013,000)*

For construction projects, $7,358,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.): *Provided,* That the requirements and restrictions which are applicable to general fund capital improvement projects and which are set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title. *(7,358,000)*

[*Total, Water and Sewer enterprise fund, $176,371,000.*]

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund established by the District of Columbia Appropriation Act for fiscal year 1982, approved December 4, 1981, as amended (95 Stat. 1174, 1175; Public Law 97-91), for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), $5,458,000, to be derived from non-Federal District of Columbia revenues: *Provided,* That the District of Columbia shall identify the sources of funding for this appropriation title from its own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board. *($5,458,000)*

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), $250,000. *(250,000)*

[*Total, enterprise funds $182,079,000.*]

[*Total, District of Columbia funds, $3,077,347,000.*]

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor, except for those funds and programs for the Metropolitan Police Department under the heading "Public Safety and Justice" which shall be considered as the amounts set apart exclusively for and shall be expended solely by that Department; and the appropriation under the heading "Repayment of General Fund Deficit" which shall be considered as the amount set apart exclusively for and shall be expended solely for that purpose.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided,* That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided,* That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided,* That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. Not to exceed 4½ per centum of the total of all funds appropriated by this Act for personal compensation may be used to pay the cost of overtime or temporary positions.

SEC. 110. Appropriations in this Act shall not be available, during the fiscal year ending September 30, 1988, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds 37,393, the number of positions authorized by this Act.

SEC. 111. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 112. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1989, shall be transmitted to the Congress no later than April 15, 1988.

SEC. 113. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on Governmental Efficiency, Federalism and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 114. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 115. None of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 116. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 117. None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

SEC. 118. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided,* That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 119. The Mayor shall not borrow any funds for capital projects unless he has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 120. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 121. None of the funds appropriated in this Act may be used for the implementation of a personnel lottery with respect to the hiring of fire fighters or police officers.

SEC. 122. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443) which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.).

SEC. 123. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 124. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided,* That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 125. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) for any position for any period during the last quarter of calendar year 1987 shall be deemed to be the rate of pay payable for that position for September 30, 1987.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793;

Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by the Mayor.

SEC. 126. Notwithstanding any other provision of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided,* That for pay purposes, employees of the District of Columbia govenment shall not be subject to the provisions of title 5 of the United States Code.

SEC. 127. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency and the District's best interest.

SEC. 128. No later than 30 days after the end of the first quarter of fiscal year 1988, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1988 revenue estimate as of the end of the first quarter of fiscal year 1988: *Provided,* That these estimates shall be used in the fiscal year 1989 annual budget request: *Provided further,* That the officially revised estimates at midyear shall be used for the midyear report.

SEC. 129. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), is amended by striking out "sold before October 1, 1987" and inserting in lieu thereof "sold before October 1, 1988".

SEC. 130. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 131. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided,* That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by Public Law 99-177, as amended.

SEC. 132. Beginning with the fiscal year 1988, amounts appropriated for any fiscal year as the Federal payment to the District of Columbia under the District of Columbia Self-Government and Governmental Reorganization Act, as amended (D.C. Code, section 47-3406), shall not be subject to apportionment and shall be paid by the Secretary of the Treasury to the District of Columbia no later

than 15 days after the beginning of the fiscal year for which they are appropriated (or no later than 15 days after the date of the enactment of the appropriating Act, if later).

SEC. 133. Beginning with the fiscal year 1988, amounts appropriated for any fiscal year for payment to the District of Columbia in lieu of reimbursement for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government, under sections 106 and 212 of the District of Columbia Public Works Act of 1954, as amended (D.C. Code, sections 43–1552, 43–1612), shall be automatically apportioned in four equal amounts for the four quarters of the fiscal year and each such amount shall be paid in full by the Secretary of the Treasury to the District of Columbia on the first day of the beginning of the fiscal quarter involved without further justification by the District of Columbia government.

SEC. 134. None of the funds available to the District of Columbia government shall be used for any purpose involved in billing individual agencies or establishments for water and water services and sanitary sewer services traditionally funded under the account "Federal Payment for Water and Sewer Services" unless and until existing statutes (sections 106 and 212 of the District of Columbia Public Works Act of 1954, as amended, Public Law 364, approved May 18, 1954) are amended to specifically provide for such billing.

SEC. 135. Federal funds hereafter appropriated to the District of Columbia government shall not be subject to apportionment except to the extent specifically provided by statute.

SEC. 136. After the effective date of this Joint Resolution, the President shall include, without change, in each annual budget submitted to the Congress under section 1105 of title 31, United States Code, the values estimated by the Mayor of the District of Columbia for water and water services and sanitary sewer services furnished to facilities of the United States Government under sections 106 and 212 of the District of Columbia Public Works Act of 1954, as amended (D.C. Code, sections 43–1552, 43–1612).

[*Total, title I, Fiscal Year 1988 Appropriations:*
[*Federal funds to the District of Columbia (net)* ..... *$550,000,000.*]
[*Appropriations, fiscal year 1988 (net)* ..... *530,000,000.*]
[*Appropriations* ..... *550,000,000.*]
[*Rescission* ..... *−20,000,000.*]
[*Advance appropriation, fiscal year 1989* ... *20,000,000.*]
[*District of Columbia funds* ..... *3,077,347,000.*]

TITLE II

FISCAL YEAR 1987 SUPPLEMENTAL

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $3,115,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99–500 and Public Law 99–591, $1,056,000 are rescinded: *Provided further,* That notwithstanding any other provision of law, there is appropriated $1,000,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, which shall be derived from the earnings of the applicable retirement funds.

($3,115,000)

(−1,056,000) (rescission)

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $309,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $5,281,000 are rescinded. *($309,000)* *(−5,281,000)* *(rescission)*

PUBLIC SAFETY AND JUSTICE

For an additional amount for "Public safety and Justice", $60,355,000, including ten additional passenger-carrying vehicles for the Fire Department. *(60,355,000)*

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $4,810,000, to be allocated as follows: $2,250,000 additional for the public schools of the District of Columbia; $1,354,000 additional for the University of the District of Columbia; $1,146,000 additional for the District of Columbia School of Law, which amount shall remain available until expended; $60,000 additional for the Educational Institution Licensure Commission: *Provided,* That of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $300,000 for the Public Library and $400,000 for the District of Columbia Teachers' Retirement Fund are rescinded. *(4,810,000)* *(−300,000)* *(rescission)* *(−400,000)* *(rescission)*

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $5,545,000: *Provided,* That $3,445,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further,* That of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $4,067,000 are rescinded. *(5,545,000)* *(−4,067,000)* *(rescission)*

PUBLIC WORKS

(INCLUDING RESCISSION)

For an additional amount for "Public works", $1,140,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $6,400,000 are rescinded. *(1,140,000)* *(−6,400,000)* *(rescission)*

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $3,488,000 are rescinded. *(−3,488,000)* *(rescission)*

PERSONAL SERVICES

For an additional amount for "Personal services", $1,800,000, to be apportioned by the Mayor to the various appropriations titles for optical and dental costs for nonunion employees. *(1,800,000)*

[*Total, operating expenses, general fund, (net) $56,082,000.*]

CAPITAL OUTLAY

For an additional amount for "Capital outlay", $20,585,000: *Provided,* That $310,000 of this additional amount shall be for project management and $240,000 of this additional amount shall be for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor, and that the funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System. *($20,585,000)*

GENERAL PROVISIONS

SEC. 201. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1987.

[*Total, title II, Fiscal Year 1987 Supplemental:*
[*District of Columbia funds (net)* ..... *$76,667,000.*]
[*Appropriations*..... *97,659,000.*]
[*Rescissions* ..... *−20,992,000.*]

This Act may be cited as the "District of Columbia Appropriations Act, 1988".

[*Total, District of Columbia Appropriations, 1988:*
[*Federal funds to the District of Columbia (net)*..... *$550,000,000.*]
[*Appropriations, fiscal year 1988 (net)* ..... *530,000,000.*]
[*Appropriations* ..... *550,000,000.*]
[*Rescission* ..... *−20,000,000.*]
[*Advance appropriation, fiscal year 1989*... *20,000,000.*]
[*District of Columbia funds (net)* ..... *3,154,014,000.*]
[*Appropriations, fiscal year 1988* ..... *3,077,347,000.*]
[*Appropriations, fiscal year 1987 supplemental (net)* ..... *76,667,000.*]
[*Appropriations* ..... *97,659,000.*]
[*Rescissions* ..... *−20,992,000.*]

(d) Such amounts as may be necessary for programs, projects or activities provided for in the Energy and Water Development Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows: *(Energy and Water Development Appropriations Act, 1988)*

AN ACT

Making appropriations for energy and water development for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $138,767,000, to remain available until expended: *Provided,* That the Secretary of the Army is directed to proceed expeditiously with the feasibility study for the multipurpose project at Sunset Harbor, California, to demonstrate the feasibility of the financing mechanism of section 916 of Public Law 99-662 and to undertake the wetlands restoration and other project purposes set forth in section 1119 of Public Law 99-662: *Provided further,* That not to exceed $19,700,000 shall be available for obligation for research and development activities: *Provided further,* That of the amounts appropriated under this heading $220,000 shall be available for a reconnaissance study of the South Fork of the Sangamon River, Illinois. $138,767,000

Using funds previously appropriated in the Energy and Water Development Appropriation Act, 1987, Public Law 99-591, the Secretary of the Army is directed to undertake the following study: Indiana Shoreline Erosion, including preconstruction engineering and design, Indiana.

The Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following items under General Investigations in fiscal year 1988:

Greenwood Lake, New Jersey;
East Bank Stabilization, New Jersey;
Beatties Dam, New Jersey;
Olcott Harbor Improvements, New York;
Atlantic Coast of New York City from Rockaway Inlet to Norton Point, New York (Coney Island Area);
Red River Waterway, Shreveport, Louisiana to Index, Arkansas;
Beaver Lake, Arkansas;
Brunswick County Beaches, North Carolina;
Westwego to Harvey Canal, Louisiana;
McCook and Thornton Reservoirs (CUP), Illinois;
Miami Harbor, Florida (cleanup);
St. Petersburg, Florida (coastal areas);
Little River, Horatio, Arkansas.

The Secretary of the Army is directed to expand the scope of the Denison Dam-Lake Texoma, Texas and Oklahoma, General Investigation study, authorized by United States Senate Public Works Committee Resolutions on April 30, 1960, and April 12, 1965, to consider alternatives for improving management and utilization of water resources of the Red River Basin at and above the Denison Dam-Lake Texoma project and to include consideration of the feasibility of additional reservoirs upstream of Denison Dam and direct current interconnections between the Southwest Power Pool and the Electric Reliability Council of Texas.

Funds are included herein for the Arthur Kill extension to Fresh Kills, near Carteret, New Jersey, to continue the ongoing post authorization planning, engineering and design provided that the level of detail shall be commensurate with General Design Memorandum level so that at the conclusion of the current effort and Secretary of the Army approval under section 202(b) of Public Law 99-662, only the preparation of plans and specifications will be necessary before construction.

The Secretary of the Army shall allocate $395,000 to continue preconstruction engineering and design and develop and execute a local cooperative agreement covering all elements of the Roanoke River Upper Basin, Virginia, project as described in the report of the Chief of Engineers dated August 5, 1985, and authorized in section 401(a) of the Water Resources Development Act, 1986 (Public Law 99-662).

The Secretary of the Army, acting through the Chief of Engineers, is directed to include preconstruction engineering and design for the upper Green Brook Sub-Basin and the Stony Brook Tributary, as authorized in the Water Resources Development Act of 1986, as part of preconstruction engineering and design for the flood control project for the Raritan River Basin, Green Brook Sub-Basin, New Jersey.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,077,985,000 of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterway Trust Fund, to remain available until expended, and of which not more than $7,000,000 shall be available to pay the authorized governing body of the Tohono O'odham Nation in accordance with the provisions of section 4(a) of Public Law 99-469; and in addition, $103,690,000, to remain available until expended, for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, $87,000,000 for work presently scheduled and $16,690,000 with which the Secretary of the Army is directed, as a minimum to award continuing contracts in fiscal year 1988 for construction and completion of each of the following features of the Red River Waterway: in Pool 3, Nantachie/Red Bayou Revetment Extension and Crain and Eureka Revetments; in Pool 4, Gahagan, Piermont, Nichols and Howard Realignments and Coushatta Capout; and in Pool 5, Cuples Revetment; and the amount provided herein includes $2,000,000 with which the Secretary of the Army is directed to initiate an accelerated design schedule for Locks and Dams 4 and 5 in order to initiate the first phase construction of Locks and Dams 4 and 5 by April 1990 and to complete construction of the Locks and Dams by 1994. None of these contracts are to be considered fully funded and contracts are to be initiated with funds herein provided; and in addition, $13,500,000, to remain available until expended, together with funds heretofore or hereafter appropriated, with which the Secretary of the Army is directed to award a single continuing contract for construction and completion of the Cooper River Seismic modification, South Carolina, project authorized by Public Law 98-63: *Provided,* That no fully allocated funding policy shall apply with respect to the construction of this project; and in addition, $5,000,000, to be made available to Metropolitan Dade County, Florida, for the purpose of a 50 per centum, cost-shared project, including environmental restoration, hurricane protection facilities and approximately one mile of dock space, establishing public access and a regional public park along the Miami River in the Allapatah community across from Curtis Park.

$1,077,985,000

103,690,000

13,500,000

5,000,000

The Secretary of the Army is directed to initiate construction of the Presque Isle Peninsula, Erie, Pennsylvania (Permanent Project), authorized in section 501(a) of Public Law 99-662. The project to be constructed is described in the report of the Chief of Engineers dated

October 2, 1981. Of amounts provided herein, $500,000 is to be used to initiate construction of the Presque Isle Peninsula project in fiscal year 1988.

Within available funds, the Secretary of the Army is hereby directed to construct streambank protection measures along the west shoreline of the city of Guntersville, Alabama, on Guntersville Lake, under the authority of section 14 of Public Law 79-526.

The Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following projects in fiscal year 1988:

Sandy Hook to Barnegat Inlet, including Sea Bright to Ocean Township and Asbury Park to Manasquan, New Jersey;

New Melones Lake, California;

Barbourville, Kentucky (Levisa/Tug Forks of Big Sandy River and Upper Cumberland River, West Virginia, Virginia and Kentucky);

Harlan, Kentucky (Levisa/Tug Forks of Big Sandy River and Upper Cumberland River, West Virginia, Virginia and Kentucky): Provided, That no fully allocated funding policy shall apply with respect to the construction of Barbourville, Kentucky, and Harlan, Kentucky (Levisa/Tug Forks of Big Sandy River and Upper Cumberland River, West Virginia, Virginia and Kentucky);

Walnut and Cherry Street Bridges, Massillon, Ohio;

Mill Creek, Fort Smith, Arkansas;

Cape May Inlet to Lower Township, New Jersey;

Ouachita River Levees, Louisiana;

Gentilly, Minnesota;

Century Park, Lorain, Ohio;

Community Park, Sheffield Lake, Ohio;

Tangier Island, Virginia;

Shelburne Bay, Vermont.

The Secretary of the Army, using funds provided by this resolution, is directed to initiate construction of the Parker Lake Project, and is directed, as a minimum, to award continuing contracts in fiscal year 1988 for construction and completion of construction of the access road and project office and the purchase of necessary land for the Parker Lake Project.

The Secretary of the Army, using funds provided by this resolution, is directed to construct in accordance with Public Law 99-662 the Mud Creek Bridge Replacement Project at Eufaula Lake, Oklahoma.

The Secretary of the Army is authorized and directed to use the sum of $11,000,000 herein appropriated and which is to remain available until expended to carry out the provisions for the harbor modifications of the Cleveland Harbor, Ohio project contained in Public Law 99-662. The provisions include bulkheading and other necessary repairs at Pier 34 and approach channels and necessary protective structures for mooring basins for transient vessels in the area south of Pier 34 with necessary material to fill the area between Piers 34 and 36 with remaining fill to be disposed in the existing containment site 14. The local sponsor will provide the Corps of Engineers with the design plans for these projects. The Corps of Engineers shall also conduct a study, pursuant to section 992, of the Cuyahoga River and harbor modifications required by the Cleveland Cuyahoga County Port Authority. The Corps of Engineers shall also be directed to provide technical assistance for these harbor modifications to the Cleveland-Cuyahoga County Port Authority and Pier 34. Congress hereby finds the project justified; and, for all elements in this appropriation, the funds expended by the Ohio Department of Natural Resources beginning with the first quarter of fiscal year 1986 in the area south of Pier 34 shall be considered eligible as non-Federal share consistent with the provisions of section 215 of Public Law 90-483, as amended. The Corps of Engineers shall inform the Congress of any delays in the project.

The Secretary of the Army is directed to dredge Saxon Harbor, Wisconsin, and to construct wood cribs as a permanent solution to the damages being caused by the Federal navigation project under the provisions of section 111 of the 1968 River and Harbor Act, Public Law 90-483, as amended.

The Secretary of the Army is directed to accomplish channel rehabilitation, repair and rehabilitation of fourteen pump stations and appurtenant works and rehabilitation and replacement of bridge structures in the vicinity of the East Side Levee and Sanitary District in East St. Louis, Illinois, by making available $1,000,000 in fiscal year 1988.

The Secretary of the Army, because of the Federal trust relationship that links the United States and Indian people, is directed to expend within available funds not to exceed $50,000 to plan and not to exceed $700,000 to design and engineer appropriate works to alleviate high ground water problems on agricultural lands owned by Cochiti Pueblo, New Mexico, directly downriver from Cochiti Dam: *Provided, however,* That no such funds shall be expended by the Secretary for design and engineering until the Secretary and the Tribal council of the Pueblo have agreed in writing to a plan of design that, in the judgment of both parties, will resolve the problems related to such high ground water: *And, provided further,* That the Secretary and the Tribal Council of the Pueblo shall continue to negotiate, and, if the parties so agree, the Secretary shall submit to Congress, if appropriate, a proposed settlement that would be in lieu of, or in addition to, any construction of works for the purposes of alleviating high ground water problems. For the purposes of this negotiation only, the provisions of section 3 of the Act of May 15, 1928 (45 stat. 535, ch. 569; 33 U.S.C. 702c) and sections 2401(a), 2401(b), and 2680(a) of title 28, United States Code, are waived. Nothing in this paragraph shall be construed to prejudice the rights, responsibilities, and defense of either party in any litigation between the Pueblo and the United States, nor commit the Secretary of the Army to a structural solution of the controversy.

The project for flood protection on the Lower San Joaquin River, California, authorized by section 10 of the Flood Control Act approved December 22, 1944 (58 Stat. 901), is modified—

(1) to authorize the Secretary of the Army, acting through the Chief of Engineers, to perform, in connection with the clearing and snagging authorized to be performed on such river from Stockton, California, to Friant Dam as part of such project by the Supplemental Appropriations Act, 1983 (97 Stat. 310)—

(A) clearing and snagging in the area of the North Fork of the Kings River in Mendota Pool from the southernly boundary of the James Reclamation District Number 1606 to Mendota Dam;

(B) fish and wildlife mitigation; and

(C) such rip-rapping in the area of the clearing and snagging on such rivers as may be necessary to prevent erosion from such clearing and snagging; and

(2) to increase the estimated cost of the clearing and snagging on the Lower San Joaquin River, including the activities authorized by paragraph (1), from $5,000,000 to $8,000,000.

The Secretary of the Army, acting through the Chief of Engineers, is directed to continue with planning, design, engineering and construction of the Des Moines Recreational River and Greenbelt project in accordance with the General Design Memorandum dated September 1987 and Public Law 99-591 using funds heretofore, herein, or hereafter appropriated.

The following portion of the Hudson River in New York County, State of New York, is hereby declared not to be part of the federally authorized Channel Deepening Project: that portion of the Hudson River lying to the west of the United States Pierhead Line as it

exists on the effective date of this Act, more specifically described as beginning at a point at the intersection of the north side of North Cove and the existing pierhead line, proceeding in a northerly direction along the existing pierhead line to a point formed by the pierhead line and the southerly side of Vesey Street if extended; thence in a westerly direction on a line perpendicular to the existing pierhead line 200 feet to a point; thence southerly on a line parallel to the existing pierhead line to a point on the northerly line of the North Cove if extended; thence in an easterly direction 200 feet to the point and place of beginning. This declaration shall apply to all or any part of the above-described area used or needed for trans-Hudson passenger ferry boat service as such may be operated by or contracted for operation by a bistate agency created by Compact between the States of New York and New Jersey.

The Secretary of the Army shall allocate $2,800,000 heretofore appropriated, and is directed to initiate and complete construction of the breakwater for the Port Austin Harbor project in Michigan in accordance with the provisions for economic justification of the project contained in the River and Harbor Act approved 2 March 1945 (Public Law 14, 79th Congress, 1st Session).

Of funds available to the Army Corps of Engineers, Flood Control and Navigation, Research and Development, $250,000 shall be made available for research to prevent ice jamming and related flooding in the Dump Creek area of the Salmon River in Idaho.

[*Total, Construction, General, $1,200,175,000.*]

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act, approved August 18, 1941, as amended, $20,000,000, to remain available until expended. $20,000,000

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), $317,704,000, to remain available until expended: *Provided,* That not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist. In furtherance of the development of the Atchafalaya Basin Floodway System, Louisiana, in accordance with Public Laws 99-88 and 99-662, the Secretary of the Army is directed to acquire necessary interests in real estate for all features of the project, flood control, developmental control, environmental, and public access, beginning at the North end of the basin and proceeding southerly. With the funds herein provided, the Secretary is further directed to begin to concurrently acquire all real estate interests approved for the project as the acquisition process proceeds in the manner described in the preceding sentence: *Provided further,* That the Secretary is directed to expedite the acquisition, in fee simple, of lands, excluding minerals, for public access in the Atchafalaya Basin Floodway System, Louisiana, as authorized by Public Laws 99-88 and 99-662, and to expend up to 50 per centum of the funds herein provided for this purpose. 317,704,000

Funds provided to the Corps of Engineers are to be used in carrying out advanced engineering and design work on the Helena Harbor, Phillips County, Arkansas, project. The Corps will complete the advanced engineering and design work and be prepared to let a contract for the first phase of the construction not later than October 1, 1988.

The Secretary of the Army shall allocate $180,000 to the Mississippi River East Bank, Warren to Wilkerson Counties, Mississippi, Natchez Area project to complete by May 1988 a reevaluation of alternative plans, submission of a draft reevaluation report/Environmental Impact Statement supplement, coordination of report findings with public and other agencies, and completion and submission of the final report by December 1988.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,400,000,000 to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that fund, and of which $12,000,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l): *Provided,* That not to exceed $8,000,000 shall be available for obligation for national emergency preparedness programs: *Provided further,* That none of the funds made available under "Operation and Maintenance, General" shall be used to pay the expenses of the Department of the Army regulatory activities. $1,400,000,000

The Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following projects in fiscal year 1988: Sauk Lake, Minnesota; and Yaquina North Jetty, Oregon.

GENERAL REGULATORY FUNCTIONS

For expenses necessary for administration of laws pertaining to preservation of navigable waters, $55,262,000, to remain available until expended. 55,262,000

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Engineer Automation Support Activity, and the Water Resources Support Center, $115,200,000, to remain available until expended. 115,200,000

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for expenses of attendence by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901-5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be

printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress; and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 225 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS, CORPS OF ENGINEERS

SEC. 101. In section 4(c) of Public Law 99-469, the word "Secretary" is deleted each time it appears and the words "United States" are inserted in lieu thereof.

SEC. 102. The Secretary of the Army is directed to initiate construction and to reimburse non-Federal interests for work completed in conjunction with the North Branch of Chicago River project in Illinois.

SEC. 103. Using funds previously provided in the Energy and Water Development Appropriations Act, 1987 (Public Law 99-500 and Public Law 99-591), the Secretary of the Army is directed to proceed with development of the Cross-Florida Barge Canal Conservation Management Plan as described in subsection 1114(e) of the Water Resources Development Act, 1986 (Public Law 99-662).

SEC. 104. A project for flood control along the San Timoteo Creek in the vicinity of Loma Linda is authorized for construction as part of the Santa Ana Mainstem including Santiago Creek Project in accordance with plans described in the San Timoteo Interim II of the Santa Ana Basin and Orange County study. For purposes of economic justification the benefits and costs of the San Timoteo Project shall be included together with the benefits and costs of the entire Santa Ana Mainstem, including Santiago Creek. The total costs for the Santa Ana Mainstem, including Santiago Creek, is to be raised by $25,000,000.

SEC. 105. Section 1124 of Public Law 99-662 is modified to add the following new subsection:

"(e) The dollar amounts listed in this section are based on October 1985 price levels. Such amounts shall be subject to adjustment pursuant to section 902(2) of this Act. Total contributions to governments in Canada that are authorized by this section, as adjusted pursuant to section 902(2) of this Act, may fluctuate to reflect changes in the rate of exchange for currency between the United States and Canada that occurred between October 1985 and the time contributions are made.".

SEC. 106. The undesignated paragraph under the heading "Puerco River and Tributaries, New Mexico" in section 401(a) of Public Law 99-662 (100 Stat. 4082) is amended by striking out "$4,190,000", "$3,140,000", and "$1,050,000" and inserting in lieu thereof "$7,300,000", "$5,500,000", and "$1,800,000", respectively.

SEC. 107. None of the funds made available under "Department of Defense-Civil, Department of the Army, Corps of Engineers-Civil", except as provided for under "General Regulatory Functions", shall be used to pay the expenses of the Department of the Army-Civil regulatory activities.

SEC. 108. The McClellan-Kerr Arkansas River navigation project authorized under the comprehensive plan for the Arkansas River Basin by section 3 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 28, 1938 (52 Stat. 1218), and section 10 of the Flood Control Act of 1946 (60 Stat. 647), is modified to include municipal, industrial and agricultural water supply as authorized project purposes. Withurawals of water for such purposes may be permitted to the extent that such withdrawals are consistent with applicable State laws and do not interfere with the other authorized purposes.

SEC. 109. The undesignated paragraph under the heading "Noyes, Minnesota, in section 401(d) of Public Law 99-662 (100 Stat. 4131) is amended by striking out "$250,000" and inserting in lieu thereof "$650,000".

SEC. 110. The Chief of Engineers is directed to retain three operational aircraft authorized pursuant to section 101 of the Act of July 27, 1953, 67 Stat. 199, together with their attendant crews, and may only dispose of any of these aircraft if authorized to do so by a future congressional enactment for that purpose. The Chief of Engineers shall provide at least thirty days advance written notification to the Appropriations Committees of the Senate and House of Representatives of any intended use of any of these aircraft for a trip destined outside the United States or its territories or possessions.

SEC. 111. The section entitled "TRANSFER OF FEDERAL TOWNSITES" in the Supplemental Appropriations Act, 1985, title 1, chapter IV (Public Law 99-88, 99 Stat. 317) as amended by section 1123 of the Water Resources Development Act, 1986 (Public Law 99-662) is further amended as follows:

(1) By deleting all that follows the colon in paragraph (7);

(2) By adding a new paragraph at the end of paragraph (7) as follows:

"(8) The Secretary shall, at full Federal expense for a period not to exceed three years from the date of the transfer of the townsite to the municipal corporation, continue to operate and maintain such corporation's electrical distribution system, including street lights, and to provide or assume the cost of electric power, natural gas, and liquified petroleum gas to buildings and facilities owned and operated by the corporation and to public school buildings located within the municipality.".

[*Total, title I, Department of Defense—Civil, new budget (obligational) authority $3,247,108,000.*]

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, $16,590,000: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That all costs of an advance planning study of a proposed project shall be considered to be construction costs and to be reimbursable in accordance with the allocation of construction costs if the project is authorized for construction: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended. $16,590,000

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended $703,716,000, of which $143,143,000 shall be available for transfers to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $152,498,000 shall be available for transfers to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation to the heading: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further,* That approximately $5,630,000 in unobligated balances of Teton Dam Failure Payment of Claims funds provided under Public Laws 94-355 dated July 12, 1976, and 94-438, dated September 30, 1976, shall be available for use on projects under this appropriation: *Provided further,* That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further,* That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further,* That of the amount herein appropriated, such amounts as may be necessary shall be available to enable the Secretary of the Interior to continue work on rehabilitating the Velarde Community Ditch Project, New Mexico, in accordance with the Federal Reclamation Laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) for the purposes of diverting and conveying water to irrigated project lands. The cost of the rehabilitation will be nonreimbursable and constructed features will be turned over to the appropriate entity for operation and maintenance: *Provided further,* That of the amount herein appropriated, such amounts as may be required shall be available to continue improvement activities for the Lower Colorado Regional Complex: *Provided further,* That the funds contained in this Act for the Garrison Diversion Unit, North Dakota, shall be expended only in accordance with the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294): *Provided further,* That none of the funds appropriated in this Act shall be used to study or construct the Cliff Dam feature of the Central Arizona Project: *Provided further,* That Plan 6 features of the Central Arizona Project other than Cliff Dam, including (1) water rights and associated lands within the State of Arizona acquired by the Secretary of the Interior through purchase, lease, or exchange, for

$703,716,000

municipal and industrial purposes, not to exceed 30,000 acrefeet; and, (2) such increments of flood control that may be found to be feasible by the Secretary of the Interior at Horseshoe and Bartlett Dams, in consultation and cooperation with the Secretary of the Army and using Corps of Engineers evaluation criteria, developed in conjunction with dam safety modifications and consistent with applicable environmental law, are hereby deemed to constitute a suitable alternative to Orme Dam within the meaning of the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.): *Provided further,* That any funds expended under this Act for the purpose of conserving endangered fish species of the Colorado River system shall be charged against the increased amount authorized to be appropriated under the Colorado River Storage Project Act, as provided by section 501(A) of the Colorado River Basin Act of 1968: *Provided further,* That notwithstanding the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294), the James River Comprehensive Report on water resource development proposals may be submitted to Congress at a date after September 30, 1988, but not later than September 30, 1989.

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, $151,000,000: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98-381: *Provided further,* That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same objects and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further,* That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project, the costs of which shall be nonreimbursable. $151,000,000

LOAN PROGRAM

For loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Acts of July 4, 1955, as amended (43 U.S.C. 421a-421d), and August 6, 1956, as amended (43 U.S.C. 422a-422l), including expenses necessary for carrying out the program, $32,309,000, to remain available until expended: *Provided,* That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That during fiscal year 1988 and within the resources and authority available, gross obligations for 32,309,000

the principal amount of direct loans shall not exceed $31,972,000: *Provided further,* That any contract under the Act of July 4, 1955 (69 Stat. 244), as amended, not yet executed by the Secretary, which calls for the making of loans beyond the fiscal year in which the contract is entered into shall be made only on the same conditions as those prescribed in section 12 of the Act of August 4, 1939 (53 Stat. 1187, 1197). *$31,972,000 (limitation on direct loans)*

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver Engineering and Research Center, and offices in the six regions of the Bureau of Reclamation, $51,690,000, of which $1,000,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided,* That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses. 51,690,000

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund. 1,000,000

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or the Colorado River development fund are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) and the Act of July 19, 1940 (43 U.S.C. 618a), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the special fund from which derived.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 13 passenger motor vehicles of which 11 shall be for replacement only; payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; for service as authorized by section 3109 of title 5, United States Code, in total not to exceed $500,000; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriations Act 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as

provided for in the Acts of August 21, 1935 (16 U.S.C. 461-467) and June 27, 1960 (16 U.S.C. 469): *Provided,* That no part of any appropriation made herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses" and amounts provided for plan formulation and advance planning investigations, and general engineering and research under the head "General Investigations".

Sums appropriated herein which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

No part of any appropriation for the Bureau of Reclamation, contained in this Act or in any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided,* That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341).

No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation.

None of the funds made available by this or any other Act shall be used by the Bureau of Reclamation for contracts for surveying and mapping services unless such contracts for which a solicitation is issued after the date of this Act are awarded in accordance with title IX of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 541 et seq.).

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

SEC. 201. Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 202. The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

SEC. 203. Appropriations in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 1535 and 1536): *Provided,* That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 204. Appropriations in this title shall be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 205. In accordance with repayment contract No. 9-07-70-W0363, entered into August 29, 1979, as amended December 18, 1981, for the Farwell Irrigation District, contractual party with the Farwell Unit, Middle Loup Division, Pick-Sloan Missouri Basin Program, and entitled "Contract between the United States of America and the Farwell Irrigation District for Additional Drainage Facilities", the costs of such project allocated to irrigation and drainage shall not be reimbursable. Payments already made under such contract shall be credited against overall payments due the United States.

SEC. 206. Of the appropriations for the Central Utah project, in this or any other Act, not more than $18,500,000 of the total in any one fiscal year may be expended by the Secretary for all administrative expenses: *Provided,* That the Inspector General of the Department of the Interior shall annually audit expenditures by the Bureau of Reclamation to determine compliance with this section: *Provided further,* That none of the Bureau of Reclamation's appropriations shall be used to fund the audit: *Provided further,* That the Bureau of Reclamation shall not delay or stop construction of the project due to this limitation and shall apply all the remaining appropriations to completion of this project, unless continuation of work on the Central Utah project would cause administrative expenses attributable to the Central Utah project to be paid from funds available for other Bureau of Reclamation projects and thereby delay their construction.

SEC. 207. The Secretary of the Interior is directed to use not to exceed $70,000 in fiscal year 1988 for soil classification studies required to complete the integration of the Hilltop Irrigation District as a Federal unit of the Pick-Sloan Missouri River Basin program.

SEC. 208. (a) Notwithstanding title II of the Reclamation Authorization Act of 1975 (Public Law 94-228), the city of Dickinson, North Dakota, is forgiven all obligations incurred by such city under the contract (numbered 9-07-60-WR052) entered into with the Secretary of the Interior or his delegatee.

(b)(1) The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into a new repayment contract with the city of Dickinson the terms of which shall entitle the city of Dickinson to water supply benefits provided by the bascule gate project authorized by title II of the Reclamation Authorization Act of 1975 in consideration for repayment of the costs of the bascule gate project as provided in paragraph (2).

(2) Repayment terms of the new contract shall provide for—

(A) repayment by the city of Dickinson of the capital cost of the bascule gate project of $1,625,000 over a period of 40 years at an interest rate of 7.21 per centum per annum; and

(B) payment of the annual operation, maintenance, and replacement costs of the project facilities.

SEC. 209. (a) Notwithstanding any other provisions of law, the city of Minot, North Dakota, is relieved of all liability for repayment to the United States of the sum of $1,026,489.29 associated with the excess capacity of the Minot Pipeline resulting from enactment of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294).

(b) The relief from liability for repayment granted by subsection (a) shall be effective retroactive to January 1, 1978, the start of the city of Minot's repayment obligation under the 1972 repayment contract with the Bureau of Reclamation.

(c) If the excess capacity referred to in subsection (a) is ever used, the city of Minot shall reimburse the United States for the costs referred to in subsection (a) proportionate to the actual use of the excess capacity.

SEC. 210. (a) The McGee Creek Project of the Bureau of Reclamation shall not be deemed completed until such time as construction of all authorized components of the project are completed, including access roads and recreation areas.

(b) The Bureau of Reclamation shall not transfer title of the project to any other entity or require repayment of the project or permit refinancing of the project until such time as the project is completed according to the terms of (a) above.

SEC. 211. The Secretary is prohibited from transferring the Office of the Commissioner of the Bureau of Reclamation, the Assistant Commissioner for Administration and the Office of Foreign Activities from Washington, D.C. to Denver, Colorado and shall have in the Washington office a minimum of sixty professional staff experienced in the following areas: Budget, Foreign Activities, Contracts and Repayment, Resource Development and Management; Construction; and Congressional and Public Affairs. The Secretary is further prohibited from transferring the Acreage Limitation Branch from Denver, Colorado to Washington, D.C. In addition, the Bureau shall maintain appropriate administrative support personnel for the Washington Office. The Secretary shall submit quarterly reports to the Congress, beginning January 1988, on Washington office reorganization initiatives to reduce overhead and duplication.

[Total, title II, Department of the Interior:
[New budget (obligational) authority ..... $956,305,000.]
[Limitation on direct loans ..... 31,972,000.]

TITLE III

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 21 for replacement only), $1,988,357,000, to remain available until expended; in addition $104,000,000 shall be derived by transfer from Uranium Supply and Enrichment Activities provided in prior years and shall be available until expended; and of which $125,800,000 which shall be available only for the following facilities: the Institute for Human Genomic Studies at the Mount Sinai Medical Center, New York City; the Center for Applied Optics, University of Alabama in Huntsville; the Center for Automation Technology, Drexel University; the Institute for Advanced Physics Research, Boston University; the Multi-Purpose Center, Boston College; the Pediatric Research Center at Children's Hospital, Pittsburgh, Pennsylvania; the Cancer Research Center at the

$1,988,357,000
104,000,000
(by transfer)

Medical University of South Carolina; the Oregon Health Science University; the Center for Advanced Microstructures and Devices, Louisiana State University; the Proton-Beam Demonstration Cancer Treatment Center, Loma Linda University Medical Center; the Center for Physical and Environmental Science, East Central University, Oklahoma; the Barry M. Goldwater Center for Science and Engineering, Arizona State University; the Institute of Nuclear Medicine, Center for Molecular Medicine and Immunology, University of Medicine and Dentistry, New Jersey; the National Center for Chemical Research, Columbia University; and the Combustion Research Facility, Phase II, Sandia Laboratory, Livermore, California; and funds provided for byproducts utilization activities shall be available only for the following regional projects: Florida Department of Agriculture and Consumer Services; Hawaii Department of Business and Economic Development; Iowa State University; Oklahoma, RedArk Development Authority; Washington, Port of Pasco; State of Alaska: *Provided,* That of the amount appropriated under this heading for the magnetic fusion program, $8,000,000 shall be available to continue research, development, engineering and design only of Project 88-R-92, Compact Ignition Tokamak: *Provided further,* That the Princeton Plasma Physics Laboratory and the Office of Fusion Energy shall submit a report and a 5-year plan based on current budgetary resources allocated for fusion energy research to the Committees on Appropriations of the House and Senate providing detailed information, costs and schedules for the concurrent construction of the Compact Ignition Tokamak project with the continued operation and completion of the Tokamak Fusion Test Reactor project.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 26 for replacement only); $950,000,000, to remain available until expended: *Provided,* That revenues received by the Department for the enrichment of uranium and estimated to total $1,301,000,000 in fiscal year 1988, shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302(b) of section 484, of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1988 so as to result in a final fiscal year 1988 appropriation estimated at not more than $0.

$950,000,000

−1,301,000,000
(revenues)

[*Total, Uranium Supply and Enrichment Activities (net), −$351,000,000.*]

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the

Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 22, of which 18 are for replacement only), $804,498,000, to remain available until expended. $804,498,000

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $360,000,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) to issue obligations to the Secretary of the Treasury. In paying the amounts determined to be appropriate as a result of the decision in Wisconsin Electric Power Co. v. Department of Energy, 778 F. 2d 1 (D.C. Cir. 1985), the Department of Energy shall pay, from the Nuclear Waste Fund, interest at a rate to be determined by the Secretary of the Treasury and calculated from the date the amounts were deposited into the Fund. Funds appropriated pursuant to this Act may be used to provide payments equivalent to taxes to special purpose units of local government at the candidate sites. 360,000,000

Subtitle A of title V, Nuclear Waste Policy Amendments Act of 1987, contained in H.R. 3545, Omnibus Budget Reconciliation Act of 1987 as agreed to and reported by the Committee on Conference on H.R. 3545 is included herein and shall be effective as if it has been enacted into law.

ATOMIC ENERGY DEFENSE ACTIVITIES

For expenses of the Department of Energy activities, $7,749,364,000, to remain available until expended, including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 292 for replacement only including 43 police-type vehicles; and purchase of two aircraft, one of which is for replacement only): *Provided,* That within the funds available within materials production activities, the Secretary of Energy shall prepare and submit to the Committees on Appropriations and Armed Services of the Senate and the House of Representatives, not later than May 1, 1988, an acquisition strategy report for replacement production reactors. Such report shall provide the rationale and description of the recommended acquisition strategy for replacement nuclear materials production capacity that would fulfill the long-term requirements of the United States for tritium and plutonium, including the recommendation of the Nuclear Weapons Council with respect to matters within the responsibility of the Council. Such report also shall include an analysis of whether or not the acquisition strategy should provide for the procurement and construction of two or more replacement production reactors, either concurrently or sequentially. Such report also shall include, but not be limited to, an analysis of the use of alternative reactor technologies at one or more sites based on the most current information including overall program costs and schedules; safety, environmental and licensing features; strategic and national security benefits; and amortization of reactor capital and operating costs through 7,749,364,000

the sale of by-product steam. Such report shall include a comprehensive comparative financial analysis and cost estimate including annual and life cycle costs for research, development, design, construction, operating expenses and revenues and the levelized unit products costs relating to the replacement production reactor alternatives considered. The recommendations of the Secretary shall include a recommendation with respect to the preferred alternatives for achieving replacement nuclear materials production capacity, including the number of production reactors required, the preferred technologies, and the preferred sites, and a time schedule for their acquisition, construction, and operation. The provision of the National Environmental Policy Act (43 U.S.C. 4321, et seq.) shall not apply to any actions taken by the Secretary in the conduct of activities associated with the preparation of such report, including, but not limited to, the formulation of an acquisition strategy or the planning, design, and selection of alternative technologies and sites for replacement production reactors: *Provided further,* That of these funds, $7,500,000 shall be made available for the Hanford Waste Vitrification Plant (Project 88-D-173): *Provided further,* That of the amount appropriated to the Department of Energy in this paragraph, $121,000,000 may be obligated only for the verification and control technology program of the Department of Energy: *Provided further,* That none of the funds made available by this Act may be used for the operation of the N-Reactor at the Hanford Reservation, Washington, unless the Secretary of Energy makes a specific determination and submits a certification in writing to the Congress that—

(1) the further operation of the N-Reactor is necessary to meet national security requirements;

(2) the Department will fully comply with the report of the National Academy of Sciences as described in Public Law 100-180;

(3) the Department plan for the N-Reactor is consistent with the reports of the Roddis panel as described in Public Law 100-180; and

(4) the N-Reactor is safe to operate.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000) $395,513,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided,* That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further,* That moneys received by the Department for miscellaneous revenues estimated to total $233,896,000 in fiscal year 1988 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1988 so as to result in a final fiscal year 1988 appropriation estimated at not more than $161,617,000.

$395,513,000

−233,896,000
(revenues)

[*Total, Departmental Administration (net), $161,617,000.*]

POWER MARKETING ADMINISTRATIONS

Operation and Maintenance, Alaska Power Administration

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $3,026,000, to remain available until expended. $3,026,000

Bonneville Power Administration Fund

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for fish passage improvements at the Umatilla River Diversion and for the Ellensburg Screen Fish Passage Facilities. Expenditures are also approved for official reception and representation expenses in an amount not to exceed $2,500.

During fiscal year 1988, no new direct loan obligations may be made.

Operation and Maintenance, Southeastern Power Administration

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $27,400,000, to remain available until expended. 27,400,000

Operation and Maintenance, Southwestern Power Administration

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $16,648,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $4,625,000 in collections from the Department of Defense from power purchases and not to exceed $1,721,000 in collections from non-Federal entities for construction projects in fiscal year 1988, to remain available until expended. 16,648,000

Construction, Rehabilitation, Operation and Maintenance, Western Area Power Administration

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (Public Law 95-91), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, the purchase of passenger motor vehicles (not to exceed 3 for replacement only), $242,512,000, to remain available until expended, of which $235,268,000, shall be derived from the Department of the Interior Reclamation fund; in addition, the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $7,003,000, to carry out the 242,512,000

power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended.

[*Total, Power Marketing Administrations, $289,586,000.*]

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (Public Law 95-91), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $2,000); $100,000,000, of which $3,000,000 shall remain available until expended and be available only for contractual activities: *Provided,* That hereafter and notwithstanding any other provision of law, not to exceed $100,000,000 of revenues from licensing fees, inspection services, and other services and collections in fiscal year 1988, may be retained and used for necessary expenses in this account, and may remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1988, so as to result in a final fiscal year 1988 appropriation estimated at not more than $0.

$100,000,000

−100,000,000
(revenues)

GEOTHERMAL RESOURCES DEVELOPMENT FUND

For carrying out the Loan Guarantee and Interest Assistance Program as authorized by the Geothermal Energy Research, Development and Demonstration Act of 1974, as amended, $72,000, to remain available until expended: *Provided,* That the indebtedness guaranteed or committed to be guaranteed through funds provided by this or any other appropriation Act shall not exceed the aggregate of $500,000,000.

72,000

500,000,000
(limitation on guaranteed loans)

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

SEC. 301. Appropriations for the Department of Energy under this title for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 302. Not to exceed 5 per centum of any appropriation made available for the current fiscal year for Department of Energy activities funded in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

SEC. 303. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. (a) In any regulations issued pursuant to section 1534 of the Defense Authorization Act for 1986, the Secretary of Energy may not disallow the following costs associated with the activities of contractor personnel from the Department of Energy National Laboratories (or Department of Energy personnel of the Department of Energy National Laboratories):

(1) Costs of providing to Congress or a State legislature, in response to a request (written or oral, prior or contemporaneous) from Congress or a State legislature, information or expert advice of a factual, technical, or scientific nature, with respect to:

(A) topics directly related to the performance of the contract; or

(B) proposed legislation; irrespective of whether such information or advice was requested or supplied through the Department of Energy.

(2) Costs for transportation, lodging, or meals incurred for the purpose of providing such information or advice.

(b) No part of any appropriation made in this title shall be obligated or expended to influence, either directly or indirectly, any appropriation or legislation before Congress, or for any publicity or propaganda purpose not specifically authorized by Congress: *Provided,* That this provision shall not apply to:

(1) the communication of departmental or agency views to the Congress;

(2) the conduct of normal legislative liaison activities; or

(3) the costs described in subsection (a).

SEC. 306. No funds appropriated or made available under this or any other Act shall be used by the executive branch for studies, reviews, to solicit proposals, to consider unsolicited proposals, undertake any initiatives or draft any proposals to transfer out of Federal ownership, management or control in whole or in part, the facilities, assets, and functions of the uranium supply and enrichment program, including inventories, until such activities have been specifically authorized in accordance with terms and conditions established by an Act of Congress hereafter enacted: *Provided,* That this provision shall not apply to the authority granted to the Department of Energy under section 161g of the Atomic Energy Act of 1954, as amended, under which it may sell, lease, grant, and dispose of property in furtherance of Atomic Energy Act activities or to the authority of the Administrator of the General Services Administration pursuant to the Federal Property and Administrative Service Act of 1944 to sell or otherwise dispose of surplus property.

SEC. 307. Within three months following the date of enactment of this Act, the Federal Energy Regulatory Commission shall provide the Committee on Appropriations of the House and Senate with a report describing the policies followed in implementing the Commission's responsibilities under the National Environmental Policy Act. This report shall include a description of the steps the Commission

has taken to ensure that environmental reviews are conducted efficiently and in a timely manner, the willingness of the Commission to utilize the technical expertise of other Federal and State agencies, and the Commission's environmental authority regarding nonjurisdictional facilities.

SEC. 308. The Federal Energy Regulatory Commission is authorized to extend the time period required for commencement of construction of Project No. 4506 for an additional two years upon application by the licensee to the Federal Energy Regulatory Commission if the Federal Energy Regulatory Commission determines that an extension is warranted under the standard set forth in section 13 of the Federal Power Act and is in the public interest.

SEC. 309. None of the funds appropriated by this Act or any other Act may be expended by the Department of Energy or the Department of Justice or any of their component agencies to prosecute any action or to enforce any judgment against any individual corporate shareholder, officer or employee for restitution under section 209 of the Economic Stabilization Act of 1970, as amended, in any case decided by the Temporary Emergency Court of Appeals on May 7, 1987, based upon the role of such individual as a central figure in any statutory or regulatory violation, except for the actual dollar amount personally received by such individual from such violation and any interest assessed on such amount. The prohibition in this section shall apply only until October 1, 1988.

SEC. 310. (a) The amendments made by section 643(b) of the Energy Security Act (Public Law 96-294) and any regulations issued to implement such amendment shall apply to qualifying small power production facilities (as such term is defined in the Federal Power Act) using solar energy as the primary energy source to the same extent such amendments and regulations apply to qualifying small power production facilities using geothermal energy as the primary energy source, except that nothing in this Act shall preclude the Federal Energy Regulatory Commission from revising its regulations to limit the availability of exemptions authorized under this Act as it determines to be required in the public interest and consistent with its obligations and duties under section 210 of the Public Utility Regulatory Policies Act of 1978.

(b) The provisions of subsection (a) shall apply to a facility using solar energy as the primary energy source only if either of the following is submitted to the Federal Energy Regulatory Commission during the two-year period beginning on the date of enactment of this Act:

(1) An application for certification of the facility as a qualifying small power production facility.

(2) Notice that the facility meets the requirements for qualification.

SEC. 311. None of the funds appropriated by this Act or any other Act may be expended by the Federal Energy Regulatory Commission for the purpose of issuing a certificate of public convenience and necessity pursuant to the application made by the Iroquois Gas Transmission System under the Commission's optional expedited certificate procedures (Docket No. CP86-523 et al.) until the Commission has considered, in accordance with applicable law, the environmental impacts.

[*Total, title III, Department of Energy:*
[*New budget (obligational) authority* ..... *$11,002,494,000.*]
[*By transfer* ..... *104,000,000.*]
[*Limitation on guaranteed loans* ..... *500,000,000.*]

TITLE IV

INDEPENDENT AGENCIES

Appalachian Regional Commission

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, except expenses authorized by section 105 of said Act, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, $107,000,000: *Provided,* That after the date of enactment of this resolution, appropriations for Appalachian regional programs in this or any other Act may be used for the purposes of the Appalachian Regional Development Act without regard to section 224(b) (2), (3), and (4) of that Act and funds in energy enterprise loan funds may be reapproved by the Commission for similar uses. $107,000,000

Delaware River Basin Commission

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $203,000. 203,000

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $263,000. 263,000

[*Total, Delaware River Basin Commission, $466,000.*]

Interstate Commission on the Potomac River Basin

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), $379,000. 379,000

Nuclear Regulatory Commission

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of pas-

senger motor vehicles and aircraft, $392,800,000, to remain available until expended: *Provided,* That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further,* That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs including criminal history checks under section 149 of the Atomic Energy Act, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections estimated at $196,400,000 in fiscal year 1988 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1988 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorizatior programs, so as to result in a final fiscal year 1988 appropriation estimated at not more than $196,400,000.

$392,800,000

−196,400,000
(revenues)

[*Total, Nuclear Regulatory Commission (net), $196,400,000.*]

Susquehanna River Basin Commission

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $197,000. 197,000

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expense of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $249,000. 249,000

[*Total, Susquehanna River Basin Commission, $446,000.*]

TENNESSEE VALLEY AUTHORITY

Tennessee Valley Authority Fund

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, $103,000,000, to remain available until expended: *Provided,* That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948 of title 5, United States Code: *Provided further,* That the official of the Tennessee Valley Authority referred to as the "inspector general of the Tennessee Valley Authority" is authorized, during the fiscal year ending September 30, 1988, to require by subpoena the

103,000,000

production of all information, documents, reports, answers, records, accounts, papers, and other data and other documentary evidence necessary in the performance of the audit and investigation functions of that official, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided further,* That procedures other than subpoenas shall be used by the inspector general to obtain documents and evidence from Federal agencies.

[*Total, title IV, Independent Agencies, new budget (obligational) authority $407,691,000.*]

TITLE V

GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act. This prohibition bars payment to a party intervening in an administrative proceeding for expenses incurred in appealing an administrative decision to the courts.

SEC. 503. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reduction", or the provision of Public Law 99–177 or Public Law 100–119.

SEC. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 505. None of the funds appropriated in this Act shall be used to implement a program of retention contracts for senior employees of the Tennessee Valley Authority.

SEC. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 507. None of the funds appropriated in this Act for Power Marketing Administrations or the Tennessee Valley Authority, and none of the funds authorized to be expended by this or any previous Act from the Bonneville Power Administration Fund or the Tennessee Valley Authority Fund, may be used to pay the costs of procuring extra high voltage (EHV) power equipment unless contract awards are made for EHV equipment manufactured in the United States when such agencies determine that there are one or more manufacturers of domestic end product offering a product that meets the technical requirements of such agencies at a price not exceeding 130 per centum of the bid or offering price of the most competitive foreign bidder: *Provided,* That such agencies shall determine the incremental costs associated with implementing this section and defer or offset such incremental costs against otherwise existing repayment obligations: *Provided further,* That this section

shall not apply to any procurement initiated prior to October 1, 1985, or to the acquisition of spare parts or accessory equipment necessary for the efficient operation and maintenance of existing equipment and available only from the manufacturer of the original equipment: *Provided further,* That this section shall not apply to procurement of domestic end product as defined in 48 C.F.R. sec. 25.101: *Provided further,* That this section shall not apply to EHV power equipment produced or manufactured in a country whose government has completed negotiations with the United States to extend the GATT Government Procurement Code, or a bilateral equivalent, to EHV power equipment, or which otherwise offers fair competitive opportunities in public procurements to United States manufacturers of such equipment.

SEC. 508. None of the funds in this Act may be used to construct or enter into an agreement to construct additional hydropower units at Denison Dam—Lake Texoma.

SEC. 509. In honor of Ernest Frederick Hollings, the building located at 83 Meeting Street in Charleston, South Carolina, shall hereafter be known and designated as the "Hollings Judicial Center": *Provided further,* That the lock and dam on the Tombigbee River in Pickens County, Alabama, commonly known as the Aliceville Lock and Dam, and the resource management and visitor center at Aliceville Lake on the Tennessee-Tombigbee Waterway shall hereafter be known and designated as the "Tom Bevill Lock and Dam" and the "Tom Bevill Resource Management and Visitor Center at Aliceville Lake on the Tennessee-Tombigbee Waterway", respectively. Any reference in a law, map, regulation, document, or paper of the United States to such lock and dam and any reference in a law, map, regulation, document, or paper of the United States to such resource management and visitor center shall be held to be a reference to the "Tom Bevill Lock and Dam" and the "Tom Bevill Resource Management and Visitor Center at Aliceville Lake on the Tennessee-Tombigbee Waterway", respectively.

This Act may be cited as the "Energy and Water Development Appropriation Act, 1988".

[*Total, Energy and Water Development Appropriations, 1988:*

[*New budget (obligational) authority* ..... *$15,613,598,000.*]

[*By transfer* ..... *104,000,000.*]

[*Limitation on direct loans* ..... *31,972,000.*]

[*Limitation on guaranteed loans* ..... *500,000,000.*]

(e) Such amounts as may be necessary for programs, projects or activities provided for in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

(Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988)

AN ACT

Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States

share of the paid-in share portion of the increases in capital stock, $40,176,393 for the General and Selective Capital Increases, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. —$40,176,393

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $437,320,185. *437,320,185 (limitation on callable capital)*

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $915,000,000, for the United States contribution to the replenishments, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. 915,000,000

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $20,300,000, for the United States share of the increase in subscriptions to capital stock, to remain available until expended. 20,300,000

CONTRIBUTION TO THE MULTILATERAL INVESTMENT GUARANTEE AGENCY

For payment to the Multilateral Investment Guarantee Agency by the Secretary of the Treasury, for the paid-in share of the capital stock, $44,403,116, to remain available until expended: *Provided,* That no such payment may be made prior to April 30, 1988: *Provided further,* That no such payment may be made on or after April 30, 1988, unless the Secretary of the Treasury certifies and reports to the Congress that the United States Director of the Agency has proposed and actively sought the adoption by the Agency of the policies and procedures specified in section 405 of H.R. 3750, as enacted herein: *Provided further,* That no such payment may be made on or after April 30, 1988, unless the Secretary of the Treasury certifies and reports to the Congress that the Board has adopted those policies and procedures, or substantially similar policies and procedures, or that the United States Director of the Agency will continue to propose and actively seek the adoption by the Agency of those policies and procedures until those policies and procedures, or substantially similar policies and procedures, have been adopted by the Board and that the failure to make such payment is likely to make the adoption of those policies and procedures more difficult to achieve. 44,403,116

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The Secretary of the Treasury may subscribe without fiscal year limitation to the callable portion of the shares of capital stock in an amount not to exceed $177,612,464. *$177,612,464 (limitation on callable capital)*

[Total, contributions to the World Bank Group:
[New budget (obligational) authority ..... $1,019,879,509.]
[Limitation on callable capital ..... 614,932,649.]

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the increase in the resources of the Fund for Special Operations, $25,732,371, to remain available until expended; and $31,600,000, for the United States share of the increases in paid-in capital stock to remain available until expended; and $1,303,000 for the United States share of the capital stock of the Inter-American Investment Corporation, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director for the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director for the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code: *Provided further,* That the United States Governor of the Inter-American Development Bank is hereby authorized to agree to, and to accept, the amendments to the Articles of Agreement in the proposed resolution entitled "Merger of Inter-regional and Ordinary Capital Resources". 25,732,371 31,600,000 1,303,000

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed $119,403,576. *119,403,576 (limitation on callable capital)*

[Total, contribution to the Inter-American Development Bank:
[New budget (obligational) authority ..... $58,635,371.]
[Limitation on callable capital ..... 119,403,576.]

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $15,057,220, to remain available until expended; and for the United States contribution to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $28,000,000, to remain available until expended: *Provided,* That no such payment may be made while the United States Director of the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. 15,057,220 28,000,000

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Asian Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed $276,503.941 *$276,503,941 (limitation on callable capital)*

[*Total, contribution to the Asian Development Bank:*
[*New budget (obligational) authority* ..... *$43,057,220.*]
[*Limitation on callable capital* ..... *276,503,941.*]

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $75,000,000, for the United States contribution to the fourth replenishment of the African Development Fund, to remain available until expended. 75,000,000

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $8,999,371, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. 8,999,371

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $134,918,184. *134,918,184 (limitation on callable capital)*

[*Total, contributions to the African Development Bank:*
[*New budget (obligational) authority* ..... *$8,999,371.*]
[*Limitation on callable capital* ..... *134,918,184.*]

AUTHORIZATION OF APPROPRIATIONS

There is hereby enacted into law H.R. 3750, as introduced in the House of Representatives on December 11, 1987. Section 102 of H.J. Res. 395 shall not apply with respect to provisions enacted by this paragraph. *(4,400,667,000, authorization)*

[*Total, contributions to International Financial Institutions:*
[*New budget (obligational) authority* ..... *$1,205,571,471.*]
[*Limitation on callable capital* ..... *1,145,758,350.*]

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1983, $244,648,000: *Provided,* That no funds shall be available for the United Nations Fund for Science and Technology: *Provided further,* That the total amount of funds appropriated under this heading shall be made available only as follows: $110,000,000 for the United Nations Development Program; $54,400,000 for the United Nations 244,648,000

Children's Fund, which amount shall be obligated and expended no later than 30 days from the date of enactment of this Act; $980,000 for the World Food Program; $980,000 for the United Nations Capital Development Fund; $220,000 for the United Nations Voluntary Fund for the Decade for Women; $2,000,000 for the International Convention and Scientific Organization Contributions; $1,960,000 for the World Meteorological Organization Voluntary Cooperation Program; $21,854,000 for the International Atomic Energy Agency; $7,840,000 for the United Nations Environment Program; $784,000 for the United Nations Educational and Training Program for Southern Africa; $245,000 for the United Nations Trust Fund for South Africa; $110,000 for the United Nations Institute for Namibia; $170,000 for the Convention on International Trade in Endangered Species; $220,000 for the World Heritage Fund; $90,000 for the United Nations Voluntary Fund for Victims of Torture; $245,000 for the United Nations Fellowship Program; $400,000 for the United Nations Center on Human Settlements; $150,000 for the UNIDO Investment Promotion Service; $12,000,000 for the Organization of American States; and $30,000,000 for the International Fund for Agricultural Development, of which up to $10,000,000 may be made available for the Special Program for Sub-Saharan African Countries Affected by Drought and Desertification: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency.

[*Total, title I, contributions for Multilateral Economic Assistance:*
[*New budget (obligational) authority ..... $1,450,219,471.*]
[*Limitation on callable capital ..... 1,145,758,350.*]

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1988, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 103, $488,715,000: *Provided,* That up to $5,000,000 shall be provided for new development projects of private entities and cooperatives utilizing surplus dairy products: *Provided further,* That not less than $8,000,000 shall be provided for the Vitamin A Deficiency Program: *Provided further,* That, notwithstanding any other provision of law, up to $10,000,000 of the funds appropriated under this heading shall be made available, and remain available until expended, for agricultural activities in Poland which are managed by the Polish Catholic Church or other nongovernmental organizations: *Provided further,* That not less than $2,000,000 of the funds appropriated under this heading shall be made available only for the North American Waterfowl Plan, which shall not be included in determining compliance with section 119(c) of the Foreign Assistance Act of 1961. $488,715,000

POPULATION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(b), $197,940,000: *Provided,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act. $197,940,000

HEALTH, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(c), $119,000,000. 119,000,000

INTERNATIONAL AIDS PREVENTION AND CONTROL PROGRAM

For necessary expenses to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, $30,000,000, which shall be made available only for activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome (AIDS) in developing countries: *Provided,* That of the funds made available under this heading $15,000,000 shall be made available to the World Health Organization for the Special Program on AIDS, including activities implemented by the Pan American Health Organization. 30,000,000

CHILD SURVIVAL FUND

For necessary expenses to carry out the provisions of section 104(c)(2), $66,000,000. 66,000,000

EDUCATION AND HUMAN RESOURCES DEVELOPMENT, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 105, $117,000,000: *Provided,* That not less than $42,000,000 of the funds appropriated under this heading and under the heading "Sub-Saharan Africa, Development Assistance" shall be available only for programs in basic primary and secondary education: *Provided further,* That $1,500,000 of the funds appropriated under this heading shall be made available for the Caribbean Law Institute: *Provided further,* That not less than $1,250,000 of the funds appropriated under this heading shall be made available for the Center for Inter-American Leadership: *Provided further,* That not less than $10,000,000 of the funds appropriated under this heading shall be available only for the International Student Exchange Program. 117,000,000

PRIVATE SECTOR, ENVIRONMENT, AND ENERGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $120,709,000: *Provided,* That not less than $5,000,000 shall be made available only for cooperative projects among the United States, Israel and developing countries: *Provided further,* That not less than $5,000,000 shall be made available only for the Central American Rural Electrification Support project: *Provided further,* That not less than $1,500,000 shall be made available only for rural electrification activities for the Caribbean. $120,709,000

SCIENCE AND TECHNOLOGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $8,662,270. 8,662,270

MICRO-ENTERPRISE DEVELOPMENT

Of the funds appropriated by this Act to carry out part I and chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $50,000,000 shall be made available for programs of credit and other assistance for micro-enterprises in developing countries: *Provided,* That local currencies which accrue as a result of assistance provided to carry out the provisions of the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 may be used for assistance for micro-enterprises: *Provided further,* That such local currencies which are used for this purpose shall be in lieu of funds reserved under this heading and shall reduce the amount reserved for assistance for micro-enterprises by an equal amount.

SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103 through 106 and section 121 of the Foreign Assistance Act of 1961, $500,000,000, for assistance only for Sub-Saharan Africa, which shall be in addition to any amounts otherwise made available for such purposes: *Provided,* That any of the funds which are appropriated under this heading may be used for assistance for Sub-Saharan Africa to carry out any economic development assistance activities under the Foreign Assistance Act of 1961: *Provided further,* That assistance made available under this heading shall be used to help the poor majority in Sub-Saharan Africa through a process of long-term development and economic growth that is equitable, participatory, environmentally sustainable, and self-reliant: *Provided further,* That these objectives may, in part, be achieved through the integration of women in the development process, appropriate consultation with private voluntary organizations, African and other organizations with a local perspective on the development process, and inclusion of the perspectives and participation of those affected by the provision of assistance: *Provided further,* That assistance made available under this heading shall be provided in accordance with the policies contained in section 102 of the Foreign Assistance Act of 1961: *Provided further,* That assistance made available under this heading should be provided, when consistent with the objectives of such assistance, through African, United States and other private and voluntary organizations which have demonstrated effectiveness in the promotion of local grassroots activities on behalf of long-term development in Sub-Saharan Africa: *Provided further,* That assistance made available under this heading should be used to help overcome shorter-term constraints to long-term development; to promote reform of sectoral economic 500,000,000

policies to support the critical sector priorities of agricultural production and natural resources, health, voluntary family planning services, education, and income generating opportunities; to bring about appropriate sectoral restructuring of the Sub-Saharan African economies; to support reform in public administration and finances and to establish a favorable environment for individual enterprise and self-sustaining development: *Provided further,* That assisted policy reforms should take into account the need to protect vulnerable groups: *Provided further,* That assistance made available under this heading shall be used to increase agricultural production in ways which protect and restore the natural resource base, especially food production; to maintain and improve basic transportation and communication networks; to maintain and restore the renewable natural resource base in ways which increase agricultural production; to improve health conditions with special emphasis on meeting the health needs of mothers and children, including the establishment of self-sustaining primary health care systems that give priority to preventive care; to provide increased access to voluntary family planning services; to improve basic literacy and mathematics especially to those outside the formal educational system and to improve primary education; and to develop income-generating opportunities for the unemployed and underemployed in urban and rural areas: *Provided further,* That the Administrator of the Agency for International Development should target the equivalent of 10 percent of the funds appropriated under this heading for each of the following: (1) maintaining and restoring the renewable natural resource base in ways which increase agricultural production, including components of agriculture activities which are consistent with this objective, (2) health activities, and (3) voluntary family planning: *Provided further,* That local currencies generated by the sale of imports or foreign exchange by the government of a country in Sub-Saharan Africa from funds appropriated under this heading shall be deposited in a special account established by that government: *Provided further,* That these local currencies shall be available only for use, in accordance with an agreement with the United States, for development activities which are consistent with the policy directions of section 102 of the Foreign Assistance Act of 1961 and for necessary administrative requirements of the United States Government: *Provided further,* That in order to carry out the purposes of this heading, section 604(a) of the Foreign Assistance Act of 1961, and similar provisions of law, shall not apply with respect to the implementation of assistance activities consistent with the purposes of this heading: *Provided further,* That the funds made available under this heading shall be provided only on a grant basis.

SOUTHERN AFRICA, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, $50,000,000, which shall be made available, without regard to section 518 of this Act and section 620(q) of the Foreign Assistance Act of 1961, only to assist sector projects supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the nine member states forming that regional institution: *Provided,* That at least 50 percent of that amount shall be made available for the transportation sector and the remaining amount shall be made available for one or more of the following sectors: manpower development; agriculture and natural resources; energy (including the improved utilization of electrical power sources which already exist in the member states and offer the potential to swiftly reduce the dependence of those states on South Africa for electricity); and industrial development and trade (including private sector initiatives): *Provided further,* That amounts made available

$50,000,000

under this heading shall be in addition to any amounts otherwise made available for such purposes and shall be in addition to amounts made available for Africa under the heading "Sub-Saharan Africa, Development Assistance": *Provided further,* That none of the funds appropriated under this heading may be made available for activities in Angola: *Provided further,* That none of the funds appropriated under this heading may be made available for activities in Mozambique unless the President certifies that it is in the national interest of the United States to do so.

PHILIPPINES, DEVELOPMENT ASSISTANCE

Of the aggregate of the funds appropriated by this Act to carry out sections 103 through 106 of the Foreign Assistance Act of 1961, not less than $40,000,000 shall be made available only for the Philippines for project and sector assistance primarily in support of the Government of the Philippines' efforts to promote economic recovery and attain sustained growth through increased rural productivity in both farm and off-farm enterprises, and other activities consistent with the purposes of chapter 1 of part I of the Foreign Assistance Act of 1961: *Provided,* That of the funds made available for the Philippines under section 103 of the Foreign Assistance Act of 1961, as amended, not less than $1,000,000 shall be made available to fund technical assistance to strengthen nonprofit private organizations and cooperatives in conjunction with projects using local currencies generated by sale of Public Law 480 and section 416 commodities.

PRIVATE AND VOLUNTARY ORGANIZATIONS

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided,* That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98–473) shall be superseded by the provisions of this section.

PRIVATE SECTOR REVOLVING FUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the provisions of section 108 of the Foreign Assistance Act of 1961, not to exceed $9,000,000 to be derived by transfer from funds appropriated to carry out the provisions of chapter 1 of part I of such Act, to remain available until expended. During fiscal year 1988, obligations for assistance from amounts in the revolving fund account under section 108 shall not exceed $12,000,000.

$9,000,000 (by transfer)

12,000,000 (limitation on direct loans)

LOAN ALLOCATION, DEVELOPMENT ASSISTANCE

In order to carry out the provisions of part I, the Administrator of the agency responsible for administering such part may furnish loan assistance pursuant to existing law and on such terms and conditions as he may determine: *Provided,* That to the maximum extent practicable, loans to private sector institutions, from funds made available to carry out the provisions of sections 103 through 106, shall be provided at or near the prevailing interest rate paid on

Treasury obligations of similar maturity at the time of obligating such funds: *Provided further,* That amounts appropriated to carry out the provisions of chapter 1 of part I which are provided in the form of loans shall remain available until September 30, 1989.

[*Total, development assistance,* [1] *$1,710,526,270.*]

AMERICAN SCHOOLS AND HOSPITALS ABROAD

For necessary expenses to carry out the provisions of section 214, $40,000,000. $40,000,000

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses to carry out the provisions of section 491, $25,000,000, to remain available until expended: *Provided,* That not less than $1,000,000 shall be made available only for assistance for children who have become orphans as a result of drought and famine in Sub-Saharan Africa. 25,000,000

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $35,132,000. 35,132,000

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $406,000,000: *Provided,* That not more than $15,000,000 of this amount shall be for Foreign Affairs Administrative Support: *Provided further,* That except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 per centum of the aggregate of the funds made available for the fiscal year 1988 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically black colleges and universities, colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this proviso, economically and socially disadvantaged individuals shall be deemed to include women: *Provided further,* That the Administrator of the Agency for International Development shall submit to the Committees on Appropriations reports assessing the management and performance of the following offices within the Agency: (1) Bureau for Science and Technology, Directorate for Human Resources, (2) Bureau for Science and Technology, Directorate for Health, (3) Bureau for Food for Peace and Voluntary Assistance, Office of Private and Voluntary Cooperation, (4) Office of the Science Advisor, (5) Bureau for Program and Policy Coordination, Office of Economic Affairs, (6) Bureau for Program and Policy Coordination, Center for Development Information and Evaluation, (7) Bureau for Asia and Near East, Office of Project Development, (8) Bureau for Private Enterprise, and (9) Bureau for Africa, Office of Development Planning: *Provided further,* That such reports shall assess, among other things, the validity of the goals and objectives of the office or directorate, how well these goals and objectives are 406,000,000

[1] Includes $12,500,000 for "AID deobligate/reobligate reappropriation" from section 515, pp. 276-277, this volume.

being achieved, the performance of the office or directorate in providing services, as appropriate, to other bureau offices and/or to the Agency's overseas missions, and, given competing demands being placed on overall Agency resources, whether appropriate personnel and funding resources are being made available for the office or directorate: *Provided further,* That such reports shall be submitted to the Committees on Appropriations by April 15, 1988: *Provided further,* That section 636(c) of the Foreign Assistance Act of 1961 is amended by striking out "$3,000,000" and inserting in lieu thereof "$6,000,000": *Provided further,* That notwithstanding any other provision of law, none of the funds appropriated under this heading or under the heading "Operating Expenses of the Agency for International Development Office of the Inspector General" shall lapse as a result of such funds not being used for contributions prescribed by the Federal Employees Retirement System Act of 1986, and such funds shall be made available for other purposes consistent with the purposes of such headings.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, $23,970,000, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding sections 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: *Provided,* That up to three percent of the amount made available under the heading "Operating Expenses of the Agency for International Development" may be transferred to and merged and consolidated with amounts made available under this heading: *Provided further,* That except as may be required by an emergency evacuation affecting the United States diplomatic missions of which they are a component element, none of the funds in this Act, or any other Act, may be used to relocate the overseas Regional Offices of the Inspector General to another country: *Provided further,* That section 103(b) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 is amended (1) by striking "; and" at the end of the first paragraph, (2) by striking the period at the end of the second paragraph and inserting in lieu thereof "; and", and (3) by inserting the following paragraph at the end thereof:

"(3) establish, notwithstanding any other provision of law, appropriate overseas staffing levels of the Regional Offices of the Inspector General of the Agency for International Development in effective consultation with the Inspector General of the Agency: *Provided,* That the authority of the Secretary of State shall be exercised only by the Secretary and shall not be delegated to a subordinate officer of the Department of State: *Provided further,* That the Inspector General must report to the appropriate committees of both Houses of the Congress within thirty days the denial by the Secretary of State of a request by the Inspector General to increase or reduce an existing position level of a regional office: *Provided further,* That the total number of positions authorized for the Office of the Inspector General in Washington and overseas shall be determined by the Inspector General within the limitation of the appropriations level provided.".

$23,970,000

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

During the fiscal year 1988, total commitments to guarantee loans shall not exceed $125,000,000 of contingent liability for loan principal: *Provided,* That the President shall enter into commitments to guarantee such loans in the full amount provided under this heading, subject only to the availability of qualified applicants for such

125,000,000 (limitation on guaranteed loans)

guarantees: *Provided further,* That section 223(e)(2) of the Foreign Assistance Act of 1961 is amended by striking out "$40,000,000" and inserting in lieu thereof "$100,000,000", and pursuant to such section borrowing authority provided therein may be exercised in such amounts as may be necessary to retain an adequate level of contingency reserves for the fiscal year 1988: *Provided further,* That section 222(a) of the Foreign Assistance Act of 1961 is amended by striking out "1988" and inserting in lieu thereof "1990". $22,000,000 *(borrowing authority, indefinite)*

[*Subtotal, Agency for International Development, $2,262,628,270.*]

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $3,188,320,000: *Provided,* That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of enactment of this Act or by October 31, 1987, whichever is later: *Provided further,* That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, of which not more than $115,000,000 may be provided as a cash transfer with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further,* That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to each such country: *Provided further,* That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty: *Provided further,* That of the funds appropriated under this heading $220,000,000 only shall be available for Pakistan: *Provided further,* That not less than $124,000,000 of the funds appropriated under this heading shall be available only for the Philippines: *Provided further,* That not less than an additional $50,000,000 of the funds appropriated under this heading shall be available only for the Philippines to assist in the implementation of agrarian reform in the Philippines if (1) the Government of the Philippines initiates an effective agrarian reform program and requests assistance from the United States for that program, and (2) a substantial majority of the resources for the implementation of that program will be provided by the Government of the Philippines or other non-United States donors, or both: *Provided further,* That if the conditions on agrarian reform in the Philippines are not met by August 31, 1988, these funds may be made available for assistance under this heading for other countries or programs: *Provided further,* That not less than $20,000,000 of the funds appropriated under this heading shall be available only for Morocco: *Provided further,* That not less than $10,000,000 of the funds appropriated under this heading shall be available only for Tunisia: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be available only for Cyprus: *Provided further,* That of the funds appropriated under this heading $35,000,000 only shall be available for Ireland: *Provided further,* That of the funds appropriated under this heading $185,000,000 only shall be available for El Salvador, $80,000,000 only shall be available for Guatemala, $90,000,000 only shall be available for Costa Rica, and $85,000,000 only shall be available for Honduras: *Provided further.* That of the funds appro- [1] 3,200,820,000

[1] Includes $12,500,000 for "AID deobligate/reobligate reappropriation" from section 515, pp. 276–277, this volume.

priated under this heading for El Salvador, 10 percent of such funds may not be obligated until enactment of the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989", and may be obligated only if, by the date of enactment of such Act, the accused murderers of United States marines in El Salvador have not been released from prison as a result of an amnesty program: *Provided further,* That not less than $18,000,000 of the funds appropriated under this heading shall be made available for Jordan, of which a substantial proportion of these funds shall be in support of the development program for the West Bank: *Provided further,* That of the funds appropriated under this heading, not less than $90,000,000 shall be available for Sub-Saharan Africa: *Provided further,* That notwithstanding section 660 of the Foreign Assistance Act of 1961 up to $1,000,000 of the funds appropriated under this heading may be made available to assist the Government of El Salvador's Special Investigative Unit for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: *Provided further,* That a report of the investigation shall be provided to the Congress: *Provided further,* That $20,000,000 of the funds appropriated under this heading shall be made available to carry out the Administration of Justice program pursuant to section 534 of the Foreign Assistance Act of 1961, of which $300,000 shall be made available for programs for Haiti and not less than $2,000,000 shall be made available for programs for Guatemala: *Provided further,* That if funds made available under this heading are provided to a foreign country as cash transfer assistance, that country shall be required to maintain these funds in a separate account and not commingle them with any other funds: *Provided further,* That such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the cash transfer nature of this assistance or which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Rept. No. 98–1159): *Provided further,* That all local currencies that may be generated with such funds provided as a cash transfer shall be deposited in a special account to be used in accordance with section 609 of the Foreign Assistance Act of 1961: *Provided further,* That at least 15 days prior to obligating any such cash transfer assistance to a foreign country under this heading, the President shall submit a notification to the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by the cash transfer assistance): *Provided further,* That not more than $5,000,000 of the funds made available under this heading may be available to finance tied aid credits, unless the President determines it is in the national interest to provide in excess of $5,000,000 and so notifies the Committees on Appropriations through the regular notification procedures: *Provided further,* That notwithstanding any other provision of law, none of the funds appropriated under this heading may be used for tied aid credits without the prior approval of the Administrator of the Agency for International Development: *Provided further,* That $25,000,000 of the funds appropriated under this heading shall be made available for earthquake relief, rehabilitation, and reconstruction assistance for El Salvador in accordance with section 491 of the Foreign Assistance Act of 1961, which amount shall be accounted for separately and, of which amount, not less than $2,000,000 shall be available for reconstruction and rehabilitation of the National University of El Salvador and other

institutions of higher education: *Provided further,* That the Office of the Inspector General of the Agency for International Development shall monitor the use of funds made available under this heading for earthquake relief, rehabilitation, and reconstruction assistance for El Salvador and shall provide, by April 15, 1988, a detailed accounting to the Committees on Appropriations of the uses of the funds made available for El Salvador during fiscal year 1987 for earthquake relief, rehabilitation, and reconstruction: *Provided further,* That $1,000,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, only for the support of the independent Polish trade union "Solidarity": *Provided further,* That of the funds appropriated under this heading not less than $1,000,000 shall be made available, notwithstanding any other provision of law, only for the promotion of democratic activities in Chile leading to a transition to democracy: *Provided further,* That funds made available under this heading shall remain available until September 30, 1989.

[*Total, Agency for International Development,* [1] $5,463,448,270.]

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $7,000,000. $7,000,000

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $13,000,000. 13,000,000

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

During the fiscal year 1988 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $23,000,000. *23,000,000 (limitation on direct loans)*

During the fiscal year 1988, total commitments to guarantee loans shall not exceed $200,000,000 of contingent liability for loan principal. *200,000,000 (limitation on guaranteed loans)*

[*Total, Funds Appropriated to the President, $5,483,448,270.*]

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $146,200,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided,* That none of the 146,200,000

[1] Includes $25,000,000 for "AID deobligate/reobligate reappropriation" from section 515, pp. 276-277, this volume.

funds appropriated under this heading shall be used to pay for abortions: *Provided further,* That section 15(d)(4) of the Peace Corps Act is amended (1) by striking out "$2,500" and inserting in lieu thereof "the applicable cost limitation described in section 636(a)(5) of the Foreign Assistance Act of 1961"; and (2) by inserting "*Provided further,* That the provisions of section 1343 of title 31, United States Code, shall not apply to the purchase of vehicles for the transportation, maintenance, or direct support of volunteers overseas:" after "section 7(c):": *Provided further,* That notwithstanding the provisions of section 7(a)(2)(A) of the Peace Corps Act (22 U.S.C. 2506(a)(2)(A)), the time-limited appointment as a member of the Foreign Service of an individual (1) who on April 1, 1987, held such appointment pursuant to section 601(c) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113; 95 Stat. 1540), and (2) who previously held an appointment for the duration of operations under the Peace Corps Act pursuant to section 5(b) of Public Law 89-134 (79 Stat. 551), shall, effective on the date of the enactment of this Act, be deemed to be an appointment for the duration of operations under the Peace Corps Act: *Provided further,* That the Peace Corps Act is amended by inserting after section 17 (22 U.S.C. 2516) the following new section:

"ACTIVITIES PROMOTING AMERICANS' UNDERSTANDING OF OTHER PEOPLES

"SEC. 18. In order to further the goal of the Peace Corps, as set forth in section 2 of this Act, relating to the promotion of a better understanding of other peoples on the part of the American people, the Director, utilizing the authorities under section 10(a)(1) and other provisions of law, shall, as appropriate, encourage, facilitate, and assist activities carried out by former volunteers in furtherance of such goal and the efforts of agencies, organizations, and other individuals to support or assist in former volunteers' carrying out such activities.".

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $98,750,000: *Provided,* That not less than $15,000,000 of the funds appropriated under this heading shall be available for narcotics interdiction and control programs for Bolivia: *Provided further,* That in addition to amounts made available pursuant to the previous proviso, not less than $7,000,000 of the funds appropriated under this heading shall be available for Latin America regional programs. $98,750,000

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; $346,450,000: *Provided,* That not less than $25,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further,* 346,450,000

That not less than $8,000,000 shall be available for the construction of educational facilities for North African Jewish refugees in France: *Provided further,* That not less than $114,547,500 shall be available for the refugee admissions program, including AIDS screening: *Provided further,* That not less than $1,500,000 shall be available for education programs at refugee camps in Thailand: *Provided further,* That funds appropriated under this heading shall be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance: *Provided further,* That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to ensure against Communist infiltration in the Western Hemisphere: *Provided further,* That of the funds appropriated under this heading $5,000,000 shall be available only for costs of the expedited resettlement of Vietnamese Amerasians eligible for refugee benefits, or, to the extent that any of such funds are not required for this purpose, they may be applied to admissions expenditures for Vietnamese Amerasians and their family members and other related Orderly Departure Program expenses: *Provided further,* That not more than $8,000,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State: *Provided further,* That funds appropriated under this heading for refugees resettling in Israel and for educational facilities for North African Jewish refugees shall be made available notwithstanding any other provision of law: *Provided further,* That H.R. 3770, as introduced in the House of Representatives on December 15, 1987, is hereby enacted into law; section 102 of H.J. Res. 395 shall not apply with respect to provisions enacted by this proviso.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $9,840,000. $9,840,000

[Total, Department of State, $455,040,000.]

[Total, title II, Economic Assistance—Bilateral:

[New budget (obligational) authority ..... $6,084,688,270.]

[Limitation on direct loans ..... 35,000,000.]

[Limitation on guaranteed loans ..... 325,000,000.]

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE

For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $700,750,000: *Provided,* That of the funds appropriated under this heading not less than $125,000,000 shall be made available only for the Philippines: *Provided further,* That $40,000,000 shall be made available only for Morocco: *Provided further,* That up to $30,000,000 shall be made available only for Tunisia: *Provided further,* That of the funds appropriated under this heading not less than $7,000,000 shall be made available only for Guatemala: *Provided further,* That none of the funds appropriated or otherwise made available pursuant to this Act may be used for the procurement by Guatemala of any weapons or ammunition: *Provided further,* That $156,000,000 only shall be available for Turkey, and $30,000,000 only shall be available for 700,750,000

Greece: *Provided further,* That of the funds appropriated under this heading not more than $28,000,000 shall be used for general costs of administering the Military Assistance program: *Provided further,* That not more than $2,400,000 of the funds appropriated under this heading shall be made available for Haiti; any material assistance provided from such funds shall be limited to nonlethal items such as transportation and communications equipment and uniforms: *Provided further,* That funds made available under this heading for Haiti shall be made available only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That of the funds appropriated under this heading $10,000,000 shall be used for the purposes of section 506(c) of the Foreign Assistance Act of 1961 to make reimbursement for the cost of defense articles, defense services and/or defense training provided to the Philippines pursuant to the President's determination of September 16, 1986, or for an additional amount for use for the general costs of administering the Military Assistance program if the Secretary of Defense so directs in writing: *Provided further,* That, after September 30, 1989, none of the funds appropriated under this heading shall be made available for the purposes of section 503(a)(3) of the Foreign Assistance Act of 1961: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That section 514 of the Foreign Assistance Act of 1961 is amended (1) by amending subsection (b)(2) to read as follows: "(2) The value of such additions to stockpiles in foreign countries shall not exceed $116,000,000 for fiscal year 1988.", and (2) by amending subsection (c) by inserting ", Thailand," after "Korea": *Provided further,* That funds appropriated under this heading shall remain available until September 30, 1990.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541, $47,400,000. $47,400,000

FOREIGN MILITARY CREDIT SALES

For expenses necessary to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,049,000,000, of which not less than $1,800,000,000 shall be available only for Israel, not less than $1,300,000,000 shall be available only for Egypt, $260,000,000 only shall be available for Pakistan, not less than $12,000,000 shall be available only for Morocco, $334,000,000 only shall be available for Turkey, and not less than $313,000,000 shall be available only for Greece: *Provided,* That to the extent that the Government of Israel requests that funds be used for such purposes, credits made available for Israel under this heading shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for other advanced weapon systems, as follows: (1) up to $150,000,000 shall be available for research and development in the United States; and (2) not less than $400,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That Israel and Egypt shall be released from their contractual liability to repay the United States Government with respect to all credits provided under this heading, and Pakistan shall be released from such liability with respect to $30,000,000 of the credits provided under this heading, and Turkey shall be released from such liability with respect to $156,000,000 of the credits provided under this heading: *Provided further,* That during fiscal year 1988, gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, shall not exceed 4,049,000,000

$4,049,000,000: *Provided further,* That any funds made available under this heading, except as otherwise specified, may be made available at concessional rates of interest, notwithstanding section 31(b)(2) of the Arms Export Control Act: *Provided further,* That the concessional rate of interest on foreign military credit sales loans shall be not less than 5 percent per year: *Provided further,* That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services.

FOREIGN MILITARY SALES DEBT REFORM

(a) REFINANCING.—Notwithstanding any other provision of law, the President is authorized during fiscal years 1988 through 1991 to transfer existing United States guaranties of outstanding Foreign Military Sales (FMS) credit debt, or to issue new guaranties, either of which would be applied to loans, bonds, notes or other obligations made or issued (as the case may be) by private United States financial institutions (the private lender) to finance the prepayment at par of the principal amounts maturing after September 30, 1989 of existing FMS loans bearing interest rates of ten percent or higher, and arrearages thereon. The loans, bonds, notes or other obligations are hereinafter referred to as the "private loan": *Provided,* That such guaranties which are transferred or are made pursuant to paragraph (a) shall cover no more and no less than ninety percent of the private loan or any portion or derivative thereof plus unpaid accrued interest and arrearages, if any, outstanding at the time of guaranty transfer or extension: *Provided further,* That the total amount of the guaranty of the private loan cannot exceed ninety percent of the outstanding principal, unpaid accrued interest and arrearages, if any, at any time: *Provided further,* That of the total amount of the private loan, the ninety percent guaranteed portion of the private loan cannot be separated from the private loan at any time: *Provided further,* That no sums in addition to the payment of the outstanding principal amounts maturing after September 30, 1989 of the loan (or advance), plus unpaid accrued interest thereon, and arrearages, if any, shall be charged by the private lender or the Federal Financing Bank as a result of such prepayment against the borrower, the guarantor, or the Guaranty Reserve Fund (GRF), except that the private lender may include, in the interest rate charged, a standard fee to cover costs, such fee which will be set at prevailing market rates, and no guaranty fee shall be charged on guarantees transferred or issued pursuant to this provision: *Provided further,* That the terms of guaranties transferred or issued under this paragraph shall be exactly the same as the existing loans or guarantees, except as modified by this paragraph and including but not limited to the final maturity and principal and interest payment structure of the existing loans which shall not be altered, except that the repayments of the private loan issued debt may be consolidated into two payments per year: *Provided further,* That the private loan or guarantees transferred or issued pursuant to this paragraph shall be fully and freely transferable, except that any guaranty transferred or extended shall cease to be effective if the private loan or any derivative thereof is to be used to provide significant support for any non-registered obligation: *Provided further,* That for purposes of sections 23 and 24 of the Arms Export Control Act (AECA), the term "defense services" shall be deemed to include the refinancing of FMS debt outstanding at the date of the enactment of this Act: *Provided further,* That not later than ninety days after the enact-

ment of this Act, the Secretary of the Treasury (Secretary) shall issue regulations to carry out the purposes of this heading and that in issuing such regulations, the Secretary shall (1) facilitate the prepayment of loans and loan advances hereunder, (2) provide for full processing of each application within thirty days of its submission to the Secretary, and (3) except as provided in section 24(a) of the AECA, impose no restriction that increases the cost to borrowers of obtaining private financing for prepayment hereunder or that inhibits the ability of the borrower to enter into prepayment arrangements hereunder: *Provided further,* That the Secretary of State shall transmit to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committees on Appropriations of the House of Representatives and Senate, a copy of the text of any agreement entered into pursuant to this section not more than thirty days after its entry into force, together with a description of the transaction.

(b) INTEREST RATE REDUCTION.—Notwithstanding any other provision of law, there is hereby appropriated such sums as may be necessary, but not more than $270,000,000, to be made available after October 1, 1988 to the Secretary of Defense for the Defense Security Assistance Agency for deposit into a new account, to remain available until expended: *Provided,* That the funds shall be used solely for the purpose of lowering the interest rate on Foreign Military Sales (FMS) credits which were financed through the Federal Financing Bank (FFB) for countries which do not refinance one or more FFB loans pursuant to paragraph (a) of this heading, and which loans have interest rates exceeding ten percent, down to an interest rate of ten percent for the remaining life of such loans: *Provided further,* That these funds shall be available only subject to a Presidential budget request: *Provided further,* That it is the intent of the Congress that these funds shall be available to all countries having FMS credits from the FFB that carry interest rates in excess of ten percent.

(c) ARREARAGES.—(1) None of the funds provided pursuant to the Arms Export Control Act (relating to Foreign Military Sales credits) or pursuant to chapter 2 of part II of the Foreign Assistance Act (relating to the Military Assistance program) shall be made available to any country for which one or more loans is refinanced pursuant to paragraph (a) of this heading and which is in default for a period in excess of ninety days in payment of principal or interest on (A) any loan made to such country guaranteed by the United States pursuant to paragraph (a) of this heading, and (B) any other loan issued pursuant to the Arms Export Control Act outstanding on the date of enactment of this provision.

(2) In conjunction with any interest rate reduction pursuant to the authority provided in paragraph (b) of this heading, the President shall require the country to commit in writing that within two years of the effective date of the interest rate reduction it will be no more than ninety days in arrears on the repayment of principal and interest on all loans for which the interest rate is thus reduced and will remain no more than ninety days in arrears for the remaining life of all such loans. None of the funds provided pursuant to the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act shall be made available to any country during any period in which it fails to comply with such commitment.

(d) PURPOSES AND REPORTS.—The authorities of paragraphs (a) and (b) of this heading may be utilized by the President in efforts to negotiate base rights and base access agreements, and for other bilateral foreign policy matters: *Provided further,* That the Secretaries of Defense, State, and Treasury shall transmit to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committees on Appropriations of the House of Representatives and Senate a joint report

detailing the United States financial and foreign policy purposes served by implementation of this authority on a country by country basis not later than March 1, 1989, and a second joint report not later than August 1, 1989.

GUARANTY RESERVE FUND

There are hereby appropriated $532,000,000 to be made available to the Guaranty Reserve Fund for payment to the Federal Financing Bank subject to claims under guarantees issued under the Arms Export Control Act: *Provided,* That if during fiscal year 1989 the funds available in the Guaranty Reserve Fund (Fund) are insufficient to enable the Secretary of Defense (Secretary) to discharge his responsibilities, as guarantor of loans guaranteed pursuant to section 24 of the Arms Export Control Act (AECA) or pursuant to this Act, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or obligations may be redeemed by the Secretary from appropriations and other funds available, including repayments by the borrowers of amounts paid pursuant to guarantees issued under section 24 of the AECA. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this heading. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. $532,000,000

FOREIGN MILITARY CREDIT SALES

(RESCISSION)

Of the funds made available in fiscal years 1985 and 1986 for expenses necessary to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $32,000,000 is rescinded. *−32,000,000 (rescission of loan authority)*

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

Not to exceed $236,865,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1988: *Provided,* That section 632(d) of the Foreign Assistance Act of 1961 shall be applicable to the transfer to countries pursuant to chapter 2 of part II of that Act of defense articles and defense services acquired under chapter 5 of the Arms Export Control Act. *236,865,000 (limitation on obligations)*

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551, $31,689,000: *Provided,* That, notwithstanding sections 451, 492(b), or 31,689,000

614 of the Foreign Assistance Act of 1961, or any other provision of law, these funds may be used only as justified in the Congressional Presentation Document for fiscal year 1988: *Provided further,* That, to the extent that these funds cannot be used to provide for such assistance, they shall revert to the Treasury as miscellaneous receipts.

[*Total, title III, Military Assistance Programs:*
[*New budget (obligational) authority* ..... *$5,360,839,000.*]
[*Limitation on obligations* ..... *236,865,000.*]
[*Rescission of loan authority* ..... *−32,000,000.*]

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

During the fiscal year 1988 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $690,000,000: *Provided,* That at the discretion of the Chairman of the Export-Import Bank, up to $110,000,000 of that amount may be available, subject to the regular notification procedures of the Appropriations Committees of the Senate and House of Representatives, as tied-aid credits in accordance with the provisions of the Export-Import Bank Act Amendments of 1986: *Provided further,* That there is appropriated to the Export-Import Bank of the United States an amount equal to the grant amount of tied-aid credits which are made available from time to time, but not to exceed $110,000,000, which shall be subject to the limitation on gross obligations for the principal amount of direct loans specified under this heading: *Provided further,* That during the fiscal year 1988, total commitments to guarantee loans shall not exceed $10,000,000,000 of contingent liability for loan principal: *Provided further,* That the direct loan and guaranty authority provided under this heading shall remain available until September 30, 1989.

[1]$690,000,000
690,000,000 (limitation on direct loans)

10,000,000,000 (limitation on guaranteed loans)

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $19,500,000 (to be computed on an accrual basis) shall be available during fiscal year 1988 for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors: *Provided,* That (1) fees or dues to

19,500,000 (limitation on administrative expenses)

[1] Reflects new budget (obligational) authority corresponding to the limitation on Export-Import Bank direct loans.

international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this heading.

[*Total, Export-Import Bank of the United States:*
[*New budget (obligational) authority* ..... *$690,000,000.*]
[*Limitation on use of corporate funds* ..... *10,709,500,000.*]

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT PROGRAM

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $25,000,000: *Provided,* That of this amount up to $5,000,000 may be used for joint financing with individual State trade promotion organizations of activities directed at the expansion of trade with developing and middle income countries, including such activities as trade fairs, seminars, targeting and feasibility studies, and activities directed at enhancing the use of exports from the United States in bilateral and multilateral projects. $25,000,000

AGENCY FOR INTERNATIONAL DEVELOPMENT

TRADE CREDIT INSURANCE PROGRAM

During fiscal year 1988, total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" shall not exceed $200,000,000 of contingent liability for loan principal. *200,000,000 (limitation on program activity)*

[*Total, title IV, Export Assistance:*
[*New budget (obligational) authority* ..... *$715,000,000.*]
[*Limitation on direct loans* ..... *690,000,000.*]
[*Limitation on guaranteed loans* ..... *10,000,000,000.*]
[*Limitation on administrative expenses* ..... *19,500,000.*]
[*Limitation on program activity* ..... *200,000,000.*]

TITLE V—GENERAL PROVISIONS

COST BENEFIT STUDIES

SEC. 501. None of the funds appropriated in this Act (other than funds appropriated for "International Organizations and Programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Acts amendatory or supplementary thereto.

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 502. Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION AGAINST PAY TO FOREIGN ARMED SERVICE MEMBER

SEC. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country.

TERMINATION FOR CONVENIENCE

SEC. 504. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

PROHIBITION OF BILATERAL FUNDING FOR MULTILATERAL PROGRAMS

SEC. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

AID RESIDENCE EXPENSES

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

AID ENTERTAINMENT EXPENSES

SEC. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed $11,500 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

REPRESENTATIONAL ALLOWANCES

SEC. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed $115,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further,* That of the total funds made available by this Act under the headings "Military Assistance" and "Foreign Military

Credit Sales", not to exceed $2,875 shall be available for entertainment expenses and not to exceed $75,000 shall be available for representation allowances: *Provided further,* That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $125,000 shall be available for entertainment allowances: *Provided further,* That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,875 shall be available for entertainment and representation allowances: *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,600 shall be available for entertainment expenses: *Provided further,* That of the funds made available by this Act under the heading "Trade and Development Program", not to exceed $2,300 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 510. None of the funds appropriated or made available (other than funds for "International Organizations and Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

HUMAN RIGHTS

SEC. 511. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 512. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, Iran, or Syria.

MILITARY COUPS

SEC. 513. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: *Provided,* That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

TRANSFERS BETWEEN ACCOUNTS

SEC. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the prior written approval of the Committees on Appropriations.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 515. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any

of the headings under the "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1988, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided,* That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds.

[1] $12,500,000
[1] 12,500,000

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress.

AVAILABILITY OF FUNDS

SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided,* That funds appropriated for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act.

FINANCIAL INSTITUTIONS—NAMES OF BORROWERS

SEC. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

FINANCIAL INSTITUTIONS—DOCUMENTATION

SEC. 520. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by or in the possession of the management of the international financial institution, unless the United States governor or representative of the institution certifies to the Committees on Appropriations that the confidentiality of the information is essential to the operation of the institution.

COMMERCE AND TRADE

SEC. 521. None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and

[1] Reappropriation amount is estimated. Included in totals for AID (see pp. 262, 264, and 266, this volume).

the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided,* That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

SURPLUS COMMODITIES

SEC. 522. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 523. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Agriculture, rural development, and nutrition, Development Assistance", "Population, Development Assistance", "Child Survival Fund", "Health, Development Assistance", "International AIDS Prevention and Control Program", "Education and human resources development, Development Assistance", "Private Sector, Environment, and Energy, Development Assistance", "Science and technology, Development Assistance", "Sub-Saharan Africa, Development Assistance", "Southern Africa, Development Assistance", "International organizations and programs", "American schools and hospitals abroad", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Anti-terrorism assistance", "Military Assistance", "Foreign Military Credit Sales", "International military education and training", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided,* That the President shall not enter into any commitment of funds appropriated for the purposes of chapter 2 of part II of the Foreign Assistance Act of 1961 or of funds

appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment: *Provided further,* That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 20 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year.

CONSULTING SERVICES

SEC. 524. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

PROHIBITION ON ABORTION LOBBYING

SEC. 525. None of the funds appropriated under this Act may be used to lobby for abortion.

NARCOTICS CONTROL REPORTING

SEC. 526. None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1987, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 527. Notwithstanding any other provision of law or of this Act, none of the funds provided for "International Organizations and Programs" shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization, the Southwest African Peoples Organization, Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended.

UNITED NATIONS VOTING RECORD

SEC. 528. (a) Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be

compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special note of the voting and speaking records of such country on issues of major importance to the United States in the General Assembly and the Security Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communique. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for inclusion in such report shall be provided as an addendum to such report.

(b) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under subsection (a), is engaged in a consistent pattern of opposition to the foreign policy of the United States.

(c) The report required by subsection (a) of this section shall be in the identical format as the "Report to Congress on Voting Practices in the United Nations" which was submitted pursuant to Public Law 99-190 and Public Law 98-164 on June 6, 1986.

LOANS TO ISRAEL UNDER ARMS EXPORT CONTROL ACT

SEC. 529. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

PROHIBITION AGAINST UNITED STATES EMPLOYEES RECOGNIZING OR NEGOTIATING WITH PLO

SEC. 530. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

ECONOMIC SUPPORT FUNDS FOR ISRAEL

SEC. 531. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

CEILINGS AND EARMARKS

SEC. 532. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

NOTIFICATION REQUIREMENT ON FUNDING FOR LEBANON

SEC. 533. None of the funds appropriated or otherwise made available pursuant to this Act for the "Economic Support Fund" or for "Foreign Military Credit Sales" shall be obligated or expended for Lebanon except as provided through the regular notification procedures of the Committees on Appropriations.

LIMITATIONS RELATED TO DRUG CONTROL IN JAMAICA, PERU, AND BOLIVIA

SEC. 534. (a) In making determinations with respect to Peru and Jamaica pursuant to section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961, the President shall take into account the extent to which the Government of each country is sufficiently responsive to United States Government concerns on drug control and whether the added provision of assistance for that country is in the national interest of the United States.

(b) In making determinations with respect to Bolivia pursuant to section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961, the President shall take into account (1) the extent to which the Government of Bolivia has engaged in narcotics interdiction operations which have significantly disrupted the illicit coca industry in Bolivia or has continued to cooperate with the United States in such operations; and (2) whether Bolivia has either met the eradication targets for the calendar year 1985 contained in its 1983 narcotics agreements with the United States or has adopted a plan to eliminate illicit narcotics cultivation, production, and trafficking countrywide, and has entered into an agreement of cooperation with the United States for implementing that plan for 1988 and beyond and is making substantial progress toward the plan's objectives, including substantial eradication of illicit coca crops and effective use of United States assistance.

NOTIFICATION CONCERNING AIRCRAFT IN CENTRAL AMERICA

SEC. 535. (a) During the fiscal year 1988, the authorities of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act may not be used to make available any helicopters or other aircraft for military use, and licenses may not be issued under section 38 of the Arms Export Control Act for the export of any such aircraft, to any country in Central America unless the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in writing at least 15 days in advance.

(b) During the fiscal year 1988, the Secretary of State shall promptly notify the committees designated in subsection (a) whenever any helicopters or other aircraft for military use are provided to any country in Central America by any foreign country.

GUATEMALA—RESETTLEMENT PROGRAM

SEC. 536. Funds provided in this Act for Guatemala may not be provided to the Government of Guatemala for use in its rural resettlement program, except through the regular notification procedures of the Committees on Appropriations.

ENVIRONMENTAL CONCERNS

SEC. 537. (a) It is the policy of the United States that participation in international financial institutions is predicated on the implementation of programs to promote environmentally sustainable economic growth and sustainable management of natural resources. The Secretary of the Treasury shall instruct the United States Executive Directors of the Multilateral Development Banks (MDB's) to continue to vigorously promote a commitment of these institutions to—

(1) add appropriately trained professional staff with expertise, and rigorously strengthen existing staffs' training in ecology and related areas;

(2) develop and implement management plans to ensure systematic environmental review of all projects;

(3) fully inform and involve host country environmental and health officials (Federal and local) and nongovernmental environmental and indigenous peoples organizations at all stages of the project cycle in environmentally sensitive projects as well as in policy based lending to ensure the active participation of local communities and non-governmental organizations in the planning of projects that may adversely affect them;

(4) substantially increase the proportion of lending supporting environmentally beneficial projects and project components, including but not limited to technical assistance for environmental ministries and institutions, resource rehabilitation projects and project components, protection of indigenous peoples, and appropriate light capital technology projects. Other examples of such projects include small scale mixed farming and multiple cropping, agroforestry, programs to promote kitchen gardens, watershed management and rehabilitation, high yield wood lots, integrated pest management systems, dune stabilization programs, programs to improve energy efficiency, energy efficient technologies such as small scale hydro projects, solar, wind and biomass energy systems, rural and mobile telecommunications systems, and improved efficiency and management of irrigation systems; and

(5) conduct analyses of the comparative costs of new generating facilities with the cost of increasing energy efficiency in the project service area.

(b) The Secretary of the Treasury shall instruct the United States Executive Directors of the MDB's and, where appropriate, the International Monetary Fund (IMF) to—

(1) promote the requirement that all country lending strategies, policy based loans and adjustment programs contain analyses of the impact of such activities on the natural resources, potential for sustainable development, and legal protections for the land rights of indigenous peoples;

(2) promote the establishment of programs of policy-based lending in order to improve natural resource management, environmental quality, and protection of biological diversity;

(3) seek a commitment of these institutions to promote the conservation of wetlands, tropical forests, and other unique biological and highly productive ecosystems.

(c) The Secretary of the Treasury shall undertake an analysis of potential initiatives, to be implemented through the MDB's, the IMF and other existing or newly created institutions, to enable developing countries to repay portions of their outstanding debt through investments in conservation of tropical forests, wetlands and other conservation activities. The Secretary of the Treasury shall report his findings and implementation plan (including projected timetable) for such "debt for conservation" initiatives including, but not

limited to conservation exchanges, to the Committees on Appropriations by April 1, 1988. Initiatives to be considered shall include, but not be limited to—

(1) the operation of mechanisms to purchase, at market discounts, developing country debt in exchange for domestic currency investments in conservation at the full par value of the purchased debt;

(2) the operation of mechanisms to reschedule substantial amounts of developing country debt to longer term maturities with reduced interest rates in exchange for borrower country conservation investment in local currencies; and

(3) the establishment of programs by the World Bank and IMF to encourage the private purchase of developing country debt at discount rates in exchange for local currency conservation investments at the full par value of such debt.

(d) In order to promote sustainable and non-chemical dependent agriculture, the Secretary of the Treasury shall instruct the United States Executive Directors of the MDB's to initiate discussions with other directors of the MDB's to propose that policies be established that integrated pest management and biological control of pests be a preferential and priority approach to pest management on all bank sponsored agricultural projects.

(e) The Secretary of the Treasury shall instruct the United States Executive Director to the International Monetary Fund to promote the requirement that the IMF conduct an in-depth analysis of the impact of its adjustment policies and conditionality of its lending facilities on the environment, public health, natural resources and indigenous people.

(f) No later than March 30, 1988, the Secretary of State and the Administrator of the Agency for International Development shall initiate discussions with other donor nations, to explore ways in which said donor nations can support the addition of professionals trained in environmental and socio-cultural impact analysis to the Inter-American Development Bank, Asian Development Bank and African Development Bank. On the basis of such discussions the Secretary of State and the Administrator of the Agency for International Development shall provide resources, including professional staff on loan, and/or financial support, to ensure with other donor nations the addition of sufficient staff trained in environmental and socio-cultural impact analysis to each of the above named regional development banks.

(g) The Secretary of the Treasury and the Secretary of State, in cooperation with the Administrator of the Agency for International Development, shall conduct bilateral and multilateral discussions with other members of the MDB's to further strengthen the environmental performance of each bank. These discussions shall include, but not be limited to organizational, administrative and procedural arrangements to remove impediments to the efficient and effective management of assistance programs necessary to protect and ensure the sustainable use of natural resources and to carry out such assistance programs in consultation with affected local communities.

(h) The Administrator of the Agency for International Development, in consultation with the Secretaries of Treasury and State, shall continue, and work to enhance, the operation of the "early warning system", by—

(1) instructing overseas missions of the Agency for International Development and embassies of the United States to analyze the impacts of Multilateral Development Bank loans well in advance of a loan's approval. Such reviews shall address the economic viability of the project; adverse impacts on the environment, natural resources, public health, and indigenous

peoples; and recommendations as to measures, including alternatives, that could eliminate or mitigate adverse impacts. If not classified under the national security system of classification, such information shall be made available to the public;

(2) compiling a list of proposed Multilateral Development Bank loans likely to have adverse impacts on the environment, natural resources, public health, or indigenous peoples. The list shall contain the information identified in paragraph (1), shall be updated in consultation with interested members of the public, and shall be made available to the Committees on Appropriations by April 1, 1988 and semiannually thereafter; and

(3) creating a cooperative mechanism for sharing information collected through the "early warning system" with interested donor and borrowing nations and encouraging the Multilateral Development Banks to institute a similar system.

(i) If a review required by subsection (h) identifies adverse impacts to the environment, natural resources, or indigenous peoples, the Secretary of the Treasury shall instruct the United States Executive Director of the appropriate MDB to seek changes to the project necessary to eliminate or mitigate those impacts.

(j) The Committee on Health and Environment of the Agency for International Development, called for in section 539(i) of the Foreign Assistance and Related Programs Appropriations Act, 1987, shall report its findings to the Committees on Appropriations by February 1, 1988.

(k) The Secretary of State, in consultation with the Secretary of the Treasury, the Administrator of the Agency for International Development, other appropriate Federal agencies, and interested members of the public, shall prepare and submit to the Committees on Appropriations and the appropriate authorizing committees by August 1, 1988, a report on a comprehensive strategy for maximizing the use of foreign assistance provided by the United States through multilateral and bilateral development agencies to address natural resources problems, such as desertification, tropical deforestation, the loss of wetlands, soil conservation, preservation of wildlife and biological diversity, estuaries and fisheries, croplands and grasslands. The report shall include, but not be limited to—

(1) an identification of the multilateral and bilateral agencies funded in part or in whole by the United States Government, whose activities have, or could have, a significant impact on sustainable natural resource use, and the rights and welfare of indigenous people, in the developing countries;

(2) a description of the internal policies and procedures by which each of these agencies addresses these issues, as well as a description of their own organizational structures for doing so;

(3) an assessment of how the funds contributed by the United States to these agencies can best be used in the future to address these issues.

PROHIBITION CONCERNING ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 538. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the

Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to Population, Development Assistance and to the need for informed voluntary family planning.

AFGHANISTAN—HUMANITARIAN ASSISTANCE

SEC. 539. Not less than $45,000,000 of the aggregate amount of funds appropriated by this Act, to be derived in equal parts from the funds appropriated to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, and chapter 4 of part II of that Act, shall be available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law.

CAMBODIAN NON-COMMUNIST RESISTANCE FORCES

SEC. 540. The President shall make available to the Cambodian non-Communist resistance forces not more than $5,000,000 of the funds appropriated by this Act for "Military Assistance" and for the "Economic Support Fund", notwithstanding any other provision of law: *Provided,* That funds appropriated by this Act for this purpose shall be obligated in accordance with the provisions of section 906 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83).

PRIVATE VOLUNTARY ORGANIZATIONS-DOCUMENTATION

SEC. 541. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development, nor shall any of the funds appropriated by this Act be made available to any private voluntary organization which is not registered with the Agency for International Development.

EL SALVADOR—INVESTIGATION OF MURDERS

SEC. 542. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January, 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, and (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January, 1981, murders.

REFUGEE RESETTLEMENT

SEC. 543. It is the sense of the Congress that all countries receiving United States foreign assistance under the "Economic Support Fund", "Foreign Military Credit Sales", "Military Assistance",

"International Military Education and Training", the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

IMMUNIZATIONS FOR CHILDREN

SEC. 544. (a) The Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that four million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diphtheria, tetanus, and tuberculosis;

(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunizable diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) the United States, through the Centers for Disease Control and the Agency for International Development, joined in a global effort by providing political and technical leadership that made possible the eradication of smallpox during the 1970's;

(7) the development of national immunization systems that can both be sustained and also serve as a model for a wide range of primary health care actions is a desired outcome of our foreign assistance policy;

(8) the United States Centers for Disease Control headquartered in Atlanta is uniquely qualified to provide technical assistance for a worldwide immunization and eradication effort and is universally respected;

(9) at the 1984 Bellagio Conference it was determined that the goal of universal childhood immunization by 1990 is indeed achievable;

(10) the Congress, through authorizations and appropriations for international health research and primary health care activities and the establishment of the Child Survival Fund, has played a vital role in providing for the well-being of the world's children;

(11) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program; and

(12) the United States private sector and public at large have responded generously to appeals for support for national immunization campaigns in developing countries.

(b)(1) The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in

a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

(A) assisting in the delivery, distribution, and use of vaccines, including—

(i) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 per centum of their annually projected target population with the full schedule of required immunizations, and

(ii) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(B) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(2) In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

ETHIOPIA—FORCED RESETTLEMENT, VILLAGIZATION

SEC. 545. None of the funds appropriated in this Act shall be made available for any costs associated with the Government of Ethiopia's forced resettlement or villagization programs.

SUDAN, ECUADOR AND JAMAICA NOTIFICATION REQUIREMENTS

SEC. 546. None of the funds appropriated in this Act shall be obligated or expended for Sudan, Jamaica or for Ecuador except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 547. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund; Military Assistance; and Foreign Military Credit Sales, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the functional development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961, as amended.

CHILD SURVIVAL ACTIVITIES

SEC. 548. Of the funds made available by this Act and appropriated for the "Child Survival Fund" and "Health, Development Assistance", up to an additional $5,000,000 may be used to reimburse United States Government agencies, agencies of State governments, and institutions of higher learning for the full cost of up to thirty employees detailed or assigned, as the case may be, to

the Agency for International Development for the purpose of carrying out child survival activities: *Provided,* That personnel which are detailed or assigned for the purposes of this section shall not be included within any personnel ceiling applicable to any United States Government agency during the period of detail or assignment.

COUNTRIES WITH ILLICIT DRUG PRODUCTION—TRANSFER OF FUNDING

SEC. 549. If any funds appropriated by this Act for "Economic Support Fund", "Military Assistance", "International Military Education and Training", or "Foreign Military Credit Sales" are not used for assistance for the country for which those funds were allocated because that country has not taken adequate steps to halt illicit drug production or trafficking, those funds shall be reprogrammed for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking.

INTER-AMERICAN DEVELOPMENT BANK—COORDINATION OF PROJECTS

SEC. 550. The Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to work with the representatives, and with the ministries from which they receive their instructions, of other donor nations to the Inter-American Development Bank, to develop a coordinated economic development program for the assistance activities of the Bank. Such program should be developed in cooperation with the Department of State and the Agency for International Development to ensure that the bilateral economic assistance programs of the United States are effectively coordinated with the activities of the Inter-American Development Bank.

CHILE—LOANS FROM MULTILATERAL DEVELOPMENT INSTITUTIONS

SEC. 551. (a) It is the sense of Congress that pursuant to section 701 of the International Institutions Act of 1977, the United States Government should oppose all loans to Chile from multilateral development institutions, except for those for basic human needs, until—

(1) the Government of Chile has ended its practice and pattern of gross abuse of internationally recognized human rights;

(2) significant steps have been taken by the Government of Chile to restore democracy, including—

(A) the implementation of political reforms which are essential to the development of democracy, such as the legalization of political parties, the enactment of election laws, the establishment of freedom of speech and the press, and the fair and prompt administration of justice; and

(B) a precise and reasonable timetable has been established for the transition to democracy.

(b) Except as otherwise specified in this Act, none of the funds made available by this Act for the "Economic Support Fund" or for title III shall be obligated or expended for Chile.

COMMODITY COMPETITION

SEC. 552. None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a

foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided,* That this section shall not prohibit:

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

PROHIBITION OF FUNDING RELATED TO COMPETITION WITH UNITED STATES EXPORTS

SEC. 553. None of the funds provided in this Act to the Agency for International Development, other than funds made available to carry out Caribbean Basin Initiative programs under the Tariff Schedules of the United States, 19 U.S.C. 1202, schedule 8, part I, subpart B, item 807.00, shall be obligated or expended—

(1) to procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined by section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)); or

(2) to assist directly in the establishment of facilities specifically designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined in section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)).

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 554. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, or Syria unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

ASSISTANCE FOR LIBERIA

SEC. 555. (a) Funds appropriated by this Act under the heading "Military Assistance" or "Economic Support Fund" may be made available for assistance for Liberia only if—

(1) the Administrator of the Agency for International Development certifies to the Congress that the Government of Liberia—

(A) has taken significant steps to: reduce extra-budgetary expenditures; reduce borrowing from any source (whether local or foreign) in anticipation of future tax receipts, profit sharing, maritime revenues, or other revenues; reduce the use of off-shore funds for the financing of domestic expenditures; and reduce the extent to which public expenditures exceed allocations; and

(B) has ceased diverting and misusing United States assistance, and has paid all amounts owed to the local currency accounts (established pursuant to the Agricultural Trade Development and Assistance Act of 1954) for the shortfalls in its payments for the fiscal years 1983 and 1984; and

(2) the Secretary of State certifies to the Congress that the Government of Liberia is making significant progress toward—

(A) permitting all political parties to freely organize, assemble, and disseminate their views as provided for by the Liberian constitution;

(B) respecting constitutional guarantees of freedom of the press and freedom of speech;

(C) maintaining the independence of the legislative branch in accordance with the Liberian constitution;

(D) establishing and maintaining an independent judiciary;

(E) providing full access to all political prisoners by internationally respected human rights organizations for the purpose of investigating human rights abuses; and

(F) improving the human rights situation.

(b) None of the funds appropriated in this Act shall be obligated or expended for Liberia except as provided through the regular notification procedures of the Committees on Appropriations.

(c) The requirements of this section are in addition to any other statutory requirements applicable to assistance for Liberia.

RECIPROCAL LEASING

SEC. 556. Section 61(a) of the Arms Export Control Act is amended by striking out "1987" and inserting in lieu thereof "1988".

ASSISTANCE FOR PAKISTAN

SEC. 557. Section 620E(d) of the Foreign Assistance Act of 1961 is amended by striking out "September 30, 1987" and inserting in lieu thereof "April 1, 1990".

LIMITATION ON DEFENSE EQUIPMENT DRAWDOWN

SEC. 558. Defense articles, services and training drawn down under the authority of section 506(a) of the Foreign Assistance Act of 1961, shall not be furnished to a recipient unless such articles are delivered to, and such services and training initiated for, the recipient country or international organization not more than one hundred and twenty days from the date on which Congress received notification of the intention to exercise the authority of that section: *Provided,* That if defense articles have not been delivered or services and training initiated by the period specified in this section, a new notification pursuant to section 506(b) of such Act shall be provided, which shall include an explanation for the delay in furnishing such articles, services, and training, before such articles, services, or training may be furnished.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 559. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section.

AUTHORIZATION REQUIREMENT

SEC. 560. Funds appropriated or otherwise made available by this Act may be obligated and expended notwithstanding section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956: *Provided,* That of the funds appropriated by this Act under the headings "Military Assistance", "Economic Sup-

port Fund", and "Foreign Military Credit Sales" (excluding loans for which liability for repayment is released pursuant to this Act), not more than 33⅓ percent of amounts remaining unobligated for each respective account on the date of enactment of this Act may be obligated prior to April 1, 1988, unless an Act authorizing appropriations for such account has been enacted.

NOTIFICATION CONCERNING EL SALVADOR

SEC. 561. (a) The Congress expects that—

(1) the Government of El Salvador and the armed opposition forces and their political representatives will be willing to pursue a dialogue for the purposes of achieving an equitable political settlement of the conflict, including free and fair elections;

(2) the elected civilian government will be in control of the Salvadoran military and security forces, and those forces will comply with applicable rules of international law and with Presidential directives pertaining to the protection of civilians during combat operations, including Presidential directive C-111-03-984 (relating to aerial fire support);

(3) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in ending the activities of the death squads;

(4) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in establishing an effective judicial system; and

(5) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in implementing the land reform program.

(b) REPORTS.—On April 1, 1988, and September 30, 1988, the President shall report to the Speaker of the House of Representatives, the Committees on Appropriations and the chairman of the Committee on Foreign Relations of the Senate on the extent to which the objectives described in subsection (a) are being met. With respect to the objective described in paragraph (4) of that subsection, each report shall specify the status of all cases presented to the Salvadoran courts involving human rights violations against civilians by members of the Salvadoran security forces, including military officers and other military personnel and civil patrolmen.

TURKISH AND GREEK MILITARY FORCES ON CYPRUS

SEC. 562. Section 620C of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(e)(1) Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) entered into by the United States after the enactment of this provision shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus.

"(2) The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this subsection.".

NOTIFICATION TO CONGRESS ON DEBT RELIEF AGREEMENTS

SEC. 563. The Secretary of State shall transmit to the Appropriations Committees of the Congress and to such other Committees as appropriate, a copy of the text of any agreement with any foreign government which would result in any debt relief no less than thirty days prior to its entry into force, other than one entered into pursuant to this Act, together with a detailed justification of the interest of the United States in the proposed debt relief: *Provided,*

That the term "debt relief" shall include any and all debt prepayment, debt rescheduling, and debt restructuring proposals and agreements.

MIDDLE EAST REGIONAL COOPERATION

SEC. 564. Middle East regional cooperative programs which have been carried out in accordance with section 202(c) of the International Security and Development Cooperation Act of 1985 shall continue to be funded at a level of not less than $5,000,000 from funds appropriated under the heading "Economic Support Fund": *Provided,* That of this amount not less than $500,000 shall be made available for scholarships for support of Israeli students studying in institutions of higher education in Arab countries and not less than $500,000 shall be made available for scholarships for support of Arab students studying in institutions of higher education in Israel: *Provided further,* That such scholarships shall be called "Arab-Israeli Peace Scholarships".

ASSISTANCE FOR THE PEOPLE OF LEBANON

SEC. 565. The Congress recognizes that the people of Lebanon have suffered greatly during much of the past two decades from the effects of natural disasters and civil strife. The Congress further recognizes that assistance provided through nongovernmental organizations has had a significant impact in mitigating the adverse consequences of these unfortunate events on the Lebanese people. Therefore, up to $5,000,000 of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 shall be made available to provide assistance for the people of Lebanon. Such assistance shall be made available only through the United Nations Children's Fund, indigenous nongovernmental organizations, or international organizations, and shall be provided in accordance with the general authorities contained in section 491 of the Foreign Assistance Act of 1961.

MEMBERSHIP DESIGNATION IN ASIAN DEVELOPMENT BANK

SEC. 566. It is the Sense of the Congress that the United States Government should use its influence in the Asian Development Bank to secure reconsideration of that institution's decision to designate Taiwan (the Republic of China) as "Taipei, China". It is further the Sense of the Congress, that the Asian Development Bank should resolve this dispute in a fashion that is acceptable to Taiwan (the Republic of China).

DEPLETED URANIUM

SEC. 567. None of the funds provided in this or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than (1) countries which are members of NATO, or (2) countries which have been designated as a major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act for Fiscal Year 1987.

EARMARKS

SEC. 568. Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act: *Provided,* That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations.

HAITI

SEC. 569. (a) SUSPENSION OF ASSISTANCE.—During fiscal year 1988, none of the funds made available by this Act or by any other Act or joint resolution may be obligated or expended to provide United States assistance (including any such assistance appropriated and previously obligated) for Haiti (other than the assistance described in subsection (b) of this section) unless the democratic process set forth in the Haitian Constitution approved by the Haitian people on March 29, 1987, especially those provisions relating to the provisional Electoral Council, is being fully and faithfully adhered to by the Government of Haiti.

(b) EXCEPTIONS.—The term "United States assistance" does not include—

(1) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 insofar as such assistance is provided through private and voluntary organizations or other nongovernmental agencies;

(2) assistance which involves the donations of food or medicine;

(3) disaster relief assistance (including any assistance under chapter 9 of part I of the Foreign Assistance Act of 1961);

(4) assistance for refugees;

(5) assistance under the Inter-American Foundation Act;

(6) assistance necessary for the continued financing of education for Haitians in the United States; or

(7) assistance provided in order to enable the continuation of migrant and narcotics interdiction operations.

(c) OTHER SANCTIONS.—It is the sense of the Congress that, in order to further encourage the Government of Haiti to adhere to the constitutionally mandated transition to democracy, the President should—

(1) suspend Haiti's eligibility for benefits under the Caribbean Basin Economic Recovery Act; and

(2) seek international cooperation to encourage such adherence by the Government of Haiti through the imposition of an international arms embargo and comprehensive trade and financial sanctions.

ASSISTANCE FOR PANAMA

SEC. 570. (a) Unless the President certifies to Congress that—

(1) the Government of Panama has demonstrated substantial progress in assuring civilian control of the armed forces and that the Panama Defense Forces and its leaders have been removed from non-military activities and institutions;

(2) the Government of Panama is conducting an impartial investigation into allegations of illegal actions by members of the Panama Defense Forces;

(3) a satisfactory agreement has been reached between the governing authorities and representatives of the opposition forces on conditions for free and fair elections; and

(4) freedom of the press and other constitutional guarantees, including due process of law, are restored to the Panamanian people;

then no United States assistance (including any such assistance appropriated and previously obligated) shall be obligated or expended for Panama in this fiscal year and any fiscal year thereafter, and none of the funds appropriated or otherwise made available in this Act, or any other Act, shall be used to finance any participation of the United States in joint military exercises conducted in Panama during the period January 1, 1988, through December 31, 1988.

(b) It is the sense of the Congress that if the conditions described in paragraphs (1) through (4) of subsection (a) have been certified as having been met, then not only will United States assistance be restored, but increased levels of such assistance should be considered for Panama.

(c) For purposes of this section, the term "United States assistance" means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government, including—

(1) assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of such Act);

(2) sales, credits, and guarantees under the Arms Export Control Act;

(3) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

(4) other financing programs of the Commodity Credit Corporation for export sales of nonfood commodities;

(5) financing under the Export-Import Bank Act of 1945; and

(6) assistance provided by the Central Intelligence Agency or assistance provided by any other entity or component of the United States Government if such assistance is carried out in connection with, or for purposes of conducting, intelligence or intelligence-related activities except that this shall not include activities undertaken solely to collect necessary intelligence;

except that the term "United States assistance" does not include (A) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 insofar as such assistance is provided through private and voluntary organizations or other nongovernmental agencies, (B) assistance which involves the donations of food or medicine, (C) disaster relief assistance (including any assistance under chapter 9 of part I of the Foreign Assistance Act of 1961), (D) assistance for refugees, (E) assistance under the Inter-American Foundation Act, (F) assistance necessary for the continued financing of education for Panamanians in the United States, or (G) assistance made available for termination costs arising from the requirements of this section.

(d) The Secretary of Treasury shall instruct the United States Executive Directors to the Multilateral Development Banks (the International Bank for Reconstruction and Development, the International Finance Corporation, and the Inter-American Development Bank) to vote against any loan to Panama, unless the President has certified in advance that the conditions set forth in subsection (a) of this section have been met.

ELIMINATION OF THE SUGAR QUOTA ALLOCATION OF PANAMA

SEC. 571. (a) IN GENERAL.—Notwithstanding any other provision of law, no sugars, sirups, or molasses that are products of Panama may be imported into the United States after the date of enactment of this Act during any period for which a limitation is imposed by authorities provided under any other law on the total quantity of sugars, sirups, and molasses that may be imported into the United States: *Provided,* That such products may be imported after the beginning of the last week of any quota year if the President certifies that for the entire duration of the quota year, freedom of the press and other consitutional guarantees, including due process of law, have been restored to the Panamanian people.

(b) REALLOCATION OF QUOTA AMOUNTS.—For any quota year for which the President does not certify for the entire duration of the quota year, freedom of the press and all other constitutional guarantees, including due process of law, have been restored to the Pan-

amanian people, no later than the last week of such quota year, the United States Trade Representative shall reallocate among other foreign countries the quantity of sugar, sirup, and molasses products of Panama that could have been imported into the United States before the date of enactment of this Act under any limitation imposed by other law on the total quantity of sugars, sirups, and molasses that may be imported into the United States during any period.

(c) CONFORMING AMENDMENTS TO TARIFF SCHEDULES.—

(1) Paragraph (c)(i) of headnote 3 of subpart A of part 10 of schedule 1 of the Tariff Schedules of the United States is amended by striking out the item relating to Panama in the table.

(2) Paragraph (c) of headnote 3 of subpart A of part 10 of schedule 1 of the Tariff Schedules of the United States is amended by adding at the end thereof the following new subparagraph:

"(iii) Notwithstanding any authority given to the United States Trade Representative under paragraphs (e) and (g) of this headnote, no allocation may be made to Panama of any portion of any limitation imposed under any paragraph of this headnote on the quantity of sugars, sirups, and molasses described in items 155.20 and 155.30 which may be entered.".

(d) CERTIFICATION.—The provisions of subsections (a) and (b), and the amendments made by subsection (c) of this section, shall cease to apply if the President certifies to Congress pursuant to section 570(a) of this Act.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 572. Section 23(a) of the Arms Export Control Act is amended by adding at the end the following: "Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of this section may be used to provide financing to Israel and Egypt for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under this Act.".

STINGERS IN THE PERSIAN GULF REGION

SEC. 573. (a) PROHIBITION.—Except as provided in subsection (b), no Stinger antiaircraft missiles may be provided, directly or indirectly, by sale, lease, grant or otherwise, during fiscal year 1988 to any country in the Persian Gulf region.

(b) EXCEPTION.—Notwithstanding the prohibition in subsection (a), such missiles may be provided to Bahrain if the President certifies to Congress that—

(1) such missiles are needed by the recipient country to counter an immediate air threat and/or to contribute to the protection of United States personnel, facilities or operations;

(2) no other appropriate system is available from the United States;

(3) the recipient agrees to safeguards as required in the Letter of Offer and Acceptance by the United States Government to protect against diversion; and

(4) the recipient country has agreed to a United States buyback of all the remaining missiles and components which

have not been destroyed or fired in order to return them to the possession and control of the United States when another United States air defense system which meets the military requirements can be made available or not more than 18 months from the enactment of this legislation.

(c) REPORT.—Not later than 3 months after the date of enactment of this Act, the President shall submit to the Congress a report which assesses the global threat caused by the proliferation of man-portable ground-to-air missiles with advanced technology comparable to that of the Stinger missile, without regard to the country of origin of those missiles. This report shall give special emphasis to the danger of such missiles being used in acts of terrorism. Further, that the President review and report every 3 months on the conditions and timing under which the appropriate system may be delivered and the means for subsequent recovery of any Stinger missiles sold under the authority of this provision.

(d) NOTIFICATION.—Before issuing any letter of offer to sell or provide Stinger missiles (without regard to the amount of the sale or transfer) the President shall notify the Speaker of the House of Representatives and the Majority Leader of the Senate. Any such notification shall contain the information required in a certification under section 36(b) of the Arms Export Control Act.

HUMAN RIGHTS IN CUBA

SEC. 574. (a) The Congress finds that—

(1) the United Nations was established in 1945 for, among other purposes, the promotion and encouragement of respect for human rights and fundamental freedoms for all;

(2) the United Nations Human Rights Commission was established by the Economic and Social Council in 1946 to investigate and make recommendations concerning the violation of human rights and fundamental freedoms;

(3) the Government of Cuba has engaged in systematic and flagrant abuses of basic human rights and freedoms so offensive that they demand universal condemnation, including—

(A) the arbitrary arrest and prolonged imprisonment of individuals accused of political opposition to the Government of Cuba for engaging in such activities as the open or private expression of political opinions or religious beliefs, the attempt to form independent labor unions, the possession, reproduction, or intended distribution of religious or political literature, including the Universal Declaration of Human Rights, or even the professional representation by legal counsel of those so accused;

(B) the murder of political prisoners while in custody or the execution of individuals sentenced to death for political offenses;

(C) the reported systematic use of physical and psychological torture and the degrading and abusive treatment of political prisoners, especially the plantados—those who refuse out of conscience to participate in so-called political rehabilitation programs;

(D) the institutionalized use of a network of neighborhood informants organized by political "block committees" or so-called "Committees for the Defense of the Revolution" to repress the exercise of any freedom of expression and to otherwise control the behavior of citizens through intimidation;

(E) the repression of the independent Committee for Human Rights in Cuba for its attempt to register as a legal organization under the laws of the State, and the reported

arrest, disappearance, or death of members of the Committee, and the continuing persecution of its president who has had to seek the safety of a foreign embassy out of fear for his life and continues to be deprived of the right to leave Cuba or to be reunited with his family; and

(F) the expulsion from Cuba of foreign journalists for having attempted to interview Cuban citizens and report objectively on the human rights situation in that country; and

(4) the Congress further recognizes that the United Nations has consistently failed to address the violation of fundamental human rights and freedoms in Cuba.

(b) It is the sense of Congress that—

(1) the United Nations and the United Nations Human Rights Commission have acted selectively and inconsistently in addressing violations of basic human rights in various countries;

(2) the United Nations General Assembly and the United Nations Human Rights Commission have failed to responsibly address the deplorable human rights situation in Cuba despite overwhelming evidence of the continuing disregard and systematic abuse of the most basic human rights by the Government of Cuba;

(3) the President, the Secretary of State, and the Permanent Representative of the United States to the United Nations are to be commended for their efforts to place Cuba on the human rights agenda of the United Nations and are strongly encouraged to continue in their efforts to bring this issue to the attention of the United Nations;

(4) the following countries are to be commended for their courageous vote in favor of considering human rights violations in Cuba, particularly in light of the thinly veiled threats of the Cuban delegation: Austria, Australia, Belgium, Costa Rica, France, Gambia, the Federal Republic of Germany, Iceland, Italy, Japan, Lesotho, Liberia, Norway, the Philippines, Somalia, Togo, and the United Kingdom;

(5) member states of the United Nations Human Rights Commission interested in democracy in the region, particularly Mexico, Spain, Peru, Venezuela, Argentina, and Colombia, should support the United States resolution on Cuban human rights at the next session of the United Nations Human Rights Commission, and that the United States should take into account this vote in determining United States bilateral and other assistance to all countries which are members of the Commission;

(6) the United States should continue to emphasize how other countries vote on fundamental issues such as human rights when determining financial support for the United Nations, including the contribution to the Human Rights Commission; and

(7) the United Nations Human Rights Commission, which will hold its forty-fourth session in Geneva, Switzerland, in 1988 should include among the highest priorities of its human rights agenda consideration of human rights violations in Cuba.

OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 575. (a) INSTRUCTIONS FOR UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution

to vote against any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979.

(b) DEFINITION.—For purposes of this section, the term "international financial institution" includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund; and

(2) wherever applicable, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the African Development Fund.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 576. Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to fiscal year 1988—

(1) shall not be obligated or expended for assistance to a country listed in section 6(j) of the Export Administration Act of 1979 on the date of enactment of this Act or placed on that list thereafter,

(2) if obligated before such date as assistance for such country, shall not disbursed, and

(3) if expended before such date for assistance to be delivered to such country from the United States or by United States nationals, then no such delivery shall be made,

unless such assistance is for humanitarian purposes.

UNITED STATES POLICY TOWARD CHILE

SEC. 577. (a) The Congress finds that—

(1) genuine democracy and internal stability best guarantee the long-term security and economic well-being of Chile;

(2) the 14-year period of military rule under General Augusto Pinochet has been a deviation from the traditional, apolitical role of the Chilean Armed Forces which had proudly carried out its security responsibilities as an arm of democratic governments for approximately 150 years, thus fundamentally assisting Chile to be a Latin American model of democracy;

(3) continued rule by a military leader after 1989 will be likely to bolster the position of the Communists, enhance the appeal of the Communist opposition's more radical and violent approach to political activity, and further the growing political polarization in Chile;

(4) the United States Government has actively supported a democratic transition in Chile, condemned violence from all sides, urged dialog between the government and democratic opposition leaders leading to a broad consensus on a transition to full democracy, and has also promoted increased respect for human rights in Chile;

(5) the United States has voiced legitimate concern regarding the failure of the Chilean Government to cooperate with the prosecution of those indicted for the 1976 assassination of former Chilean diplomat Orlando Letelier and American citizen Ronni Moffitt, and to bring to justice those members of government security forces reported to have beaten and set on fire Carmen Gloria Quintana and Rodrigo Rojas de Negri;

(6) on August 1, 1978, a United States Federal grand jury indicted three members of the Chilean intelligence service, General Manuel Contreras, Captain Armando Fernandez Larios, and Colonel Pedro Espinoza, for conspiracy in the

September 21, 1976, murders of Orlando Letelier and Ronni Karpen Moffitt; Armando Fernandez Larios affirmed the grand jury indictment in his February 4, 1987, testimony before the United States District Court in Washington, District of Columbia;

(7) free elections and democratic government are conditions which lead to public accountability and thus to observance of human rights in Chile and all other countries;

(8) the Universal Declaration of Human Rights determines free elections to be a basic human right and states that the "will of the people shall be the basis of government; this will shall be expressed in equal suffrage and shall be held by secret vote or by equivalent voting procedures";

(9) the United States believes that a free, fair and open election which offers a clear choice of candidates and political views is the best formula for choosing democratic leaders and insuring a peaceful transition to democracy in Chile; and

(10) the United States, in view of longstanding friendly ties between the American and Chilean people, recognizes that only the Chilean people can bring about a transition to democracy but wishes to encourage a situation in which a return to fully functioning democracy will occur in the near future and in which the Chilean people will have the opportunity to elect democratically their own leaders.

(b) The Congress hereby—

(1) looks forward to the early return of the Chilean Armed Forces to its traditional role as a pillar of strength in the support of democracy in Chile; and

(2) calls upon the Government of Chile to make appropriate compensation to the members of the Letelier and Moffitt families and urges the Chilean Government to make available for trial in the United States or bring to justice in Chile Manuel Contreras and Pedro Espinoza for their involvement in the assassination and subsequent coverup of their role in the 1976 car bombing of Orlando Letelier and Ronni Karpen Moffitt; and

(3) strongly urges that the Government of Chile takes steps to—

(A) assure that military rule in Chile ends at least by 1989;

(B) ensure that the next democratically elected president of Chile is chosen from civilian candidates who offer a clear choice of political views;

(C) facilitate and assure voting procedures for the electoral process which are genuinely fair and based upon universal and equal suffrage with broad participation and which ensure that the vote will be accurately counted and subject to independent verification;

(D) in accord with past Chilean traditions, such clear and agreed upon procedures should be established well in advance of any electoral act so that all Chileans can be confident that the vote will be accurately counted and subject to independent verification; and

(E) ensure that prior to any electoral process, freedom of assembly and expression are fully restored and nonviolent government opponents are given early and fair access to every means of communication, including television.

ASSISTANCE FOR IMPLEMENTATION OF REGIONAL PEACE AGREEMENT

SEC. 578. Notwithstanding any other provision of law, unobligated balances of funds appropriated by the Supplemental Appropriations Act, 1985 (Public Law 99-88) under the heading "Assistance for

Implementation of a Contadora Agreement" shall be used only to facilitate, through support for such activities as verification and monitoring, the regional peace initiative signed in Guatemala City on August 7, 1987.

ADMINISTRATION OF JUSTICE

SEC. 579. (a) Section 534(b)(3) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(3) notwithstanding section 660 of this Act—

"(A) programs to enhance professional capabilities to carry out investigative and forensic functions conducted under judicial or prosecutorial control;

"(B) programs to assist in the development of academic instruction and curricula for training law enforcement personnel;

"(C) programs to improve the administrative and management capabilities of law enforcement agencies, especially their capabilities relating to career development, personnel evaluation, and internal discipline procedures; and

"(D) programs, conducted through multilateral or regional institutions, to improve penal institutions and the rehabilitation of offenders;".

(b) Section 534(e) of such Act is amended to read as follows:

"(e) Personnel of the Department of Defense and members of the United States Armed Forces may not participate in the provision of training under this section. Of the funds made available to carry out this section, not more than $7,000,000 may be made available in each of fiscal years 1988 and 1989 to carry out the provisions of subsection (b)(3) of this section. The authority of this section shall expire on September 30, 1989.".

COOPERATIVE TRAINING AGREEMENTS WITH MAJOR NON-NATO ALLIES

SEC. 580. Section 21(g) of the Arms Export Control Act is amended—

(1) by inserting "and with other countries which are major non-NATO allies," after "New Zealand,"; and

(2) by adding at the end the following: "As used in this subsection, the term 'major non-NATO allies' means those countries designated as major non-NATO allies for purposes of section 1105 of the National Defense Authorization Act of fiscal year 1987.".

ASSISTANCE FOR POLAND

SEC. 581. Up to the equivalent of $500,000 of the nonconvertible Polish currencies (after satisfaction of preexisting commitments to use such currencies for other purposes specified by law) held by the United States which have been generated by the sale to Poland of surplus United States dairy products may be made available for the reconstruction, renovation, and maintenance of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland, established for the study of events related to the Holocaust in Poland.

MAINTENANCE OF MILITARY BALANCE OF EASTERN MEDITERRANEAN

SEC. 582. (a) UNITED STATES POLICY.—The Congress intends that excess defense articles be made available under this section consistent with the United States policy, established by section 620C of the Foreign Assistance Act of 1961, of maintaining the military balance in the eastern Mediterranean.

(b) MAINTENANCE OF BALANCE.—Accordingly, the President shall ensure that, for each fiscal year, the ratio of—

(1) the value of excess defense articles made available for Turkey under this section, to

(2) the value of excess defense articles made available for Greece under this section, closely approximates the ratio of—

(A) the amount of military assistance and financing provided for Turkey, to

(B) the amount of military assistance and financing provided for Greece.

(c) EXCEPTION TO REQUIREMENT.—Subsection (b) shall not apply if either Greece or Turkey ceases to be eligible to receive excess defense articles.

IMPORT ASSISTANCE FOR CBI BENEFICIARY COUNTRIES AND THE PHILIPPINES

SEC. 583. (a) For the purpose of this Act Congress finds that the cultivation and processing of sugar cane is a significant part of the economy of a number of friendly foreign nations that have traditionally exported raw sugar to the United States for refining and marketing. The sugar production and marketing policies of sugar exporting countries, other than the CBI and the Philippines, notably the EEC, has resulted in the surplus production of sugar and the dumping of sugar on world markets, thereby depressing prices to levels below the cost of production. Because of the changes occurring in the United States market for sweeteners, the export market for raw sugar produced in the CBI and Philippines has been severely restricted. In accordance with the purposes of this Act, efforts shall be made by the United States to provide assistance that helps to maintain a viable sugar industry in these countries. By conducting a special reexport program for sugar, effectively utilizing CCC-owned commodities, the friendly sugar-producing nations of the Caribbean Basin and the Philippines are helped more effectively than they are through section 416 commodity program assistance, and the sugar refining industry in the United States is able to retain a viable level of productive capacity.

(b) The Secretary of Agriculture shall issue regulations for fiscal year 1988 that set forth the terms and conditions of a special export enhancement program for a quantity of refined sugar produced in the United States equal to the quantity of raw sugar imported from beneficiary countries as defined in the Caribbean Basin Initiative (19 U.S.C. 2702) and the Republic of the Philippines. This will enable United States refiners, processors or operators to purchase raw sugar from CBI beneficiary countries and the Republic of the Philippines at United States domestic prices for export of an equivalent quantity of refined sugar into world markets within 60 days. The tonnage for fiscal year 1988 for this purpose shall be no less than 290,000 short tons, raw value, for the CBI nations and 110,000 short tons, raw value, for the Philippines. This amount shall be in addition to the sugar quota level established for the CBI and Philippines pursuant to the tariff schedules (19 U.S.C. 1202), for calendar year 1988 and shall not be held as violating the no cost provision contained in the sugar title of the Food Security Act of 1985. In order to maximize the number of competing bidders, the Secretary shall, in determining the low bidders in the special export enhancement program established under this section, make appropriate adjustments in bids received from sugar refiners and processors to reflect differing transportation costs based on refinery and factory location.

(c) The Secretary of Agriculture shall estimate the dollar amount of section 416 commodities which would be made available to compensate eligible CBI countries and the Philippines for the 1988 sugar

quota year and operate the special sugar export enhancement program by adjusting the quantities of sugar shipped and imported under this program so as to insure that the cost of $12,000,000 below the outlay costs for fiscal year 1988 of the section 416 commodities that would otherwise have been made available, including any costs in shipping the minimum amount of section 416 commodities as required in the Food Security Act of 1985. To estimate dollar values, the Secretary of Agriculture shall estimate the cost of the certificates to be 13 percent above their face value. —$12,000,000

AMERASIAN IMMIGRATION

SEC. 584. (a)(1) Notwithstanding any numerical limitations specified in the Immigration and Nationality Act, the Attorney General may admit aliens described in subsection (b) to the United States as immigrants if—

(A) they are admissible (except as otherwise provided in paragraph (2)) as immigrants, and

(B) they are issued an immigrant visa and depart from Vietnam during the 2-year period beginning 90 days after the date of the enactment of this Act.

(2) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not be applicable to any alien seeking admission to the United States under this section, and the Attorney General on the recommendation of a consular officer may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following an investigation by a consular officer.

(3) Notwithstanding section 221(c) of the Immigration and Nationality Act, immigrant visas issued to aliens under this section shall be valid for a period of 8 months.

(b)(1) An alien described in this section is an alien who, as of the date of the enactment of this Act, is residing in Vietnam and who establishes to the satisfaction of a consular officer or an officer of the Immigration and Naturalization Service after a face-to-face interview, that the alien—

(A)(i) was born in Vietnam after January 1, 1962, and before January 1, 1976, and (ii) was fathered by a citizen of the United States (such an alien in this section referred to as a "principal alien");

(B) is the spouse or child of a principal alien and is accompanying, or following to join, the principal alien; or

(C) subject to paragraph (2), either (i) is the principal alien's natural mother (or is the spouse or child of such mother), or (ii) has acted in effect as the principal alien's mother, father, or next-of-kin (or is the spouse or child of such an alien), and is accompanying, or following to join, the principal alien.

(2) An immigrant visa may not be issued to an alien under paragraph (1)(C) unless the principal alien involved is unmarried and the officer referred to in paragraph (1) has determined, in the officer's discretion, that (A) such an alien has a bona fide relationship with the principal alien similar to that which exists between close family members and (B) the admission of such an alien is necessary for humanitarian purposes or to assure family unity. If an alien described in paragraph (1)(C)(ii) is admitted to the United States, the natural mother of the principal alien involved shall not, thereafter, be accorded any right, privilege, or status under the Immigration and Nationality Act by virtue of such parentage.

(3) For purposes of this section, the term "child" has the meaning given such term in section 101(b)(1) (A), (B), (C), (D), and (E) of the Immigration and Nationality Act.

(c) Any alien admitted (or awaiting admission) to the United States under this section shall be eligible for benefits under chapter 2 of title IV of the Immigration and Nationality Act to the same extent as individuals admitted (or awaiting admission) to the United States under section 207 of such Act are eligible for benefits under such chapter.

(d) The Attorney General, in cooperation with the Secretary of State, shall report to Congress 1 year, 2 years, and 3 years, after the date of the enactment of this Act on the implementation of this section. Each such report shall include the number of aliens who are issued immigrant visas and who are admitted to the United States under this section and number of waivers granted under subsection (a)(2) and the reasons for granting such waivers.

(e) Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section and nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

NARCOTICS AGREEMENTS

SEC. 585. (a) Section 481(h)(2)(A) of the Foreign Assistance Act of 1961 is amended—

(1) in clause (i), by inserting "in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States, (as described in (ii)) and," after "on its own,";

(2) by redesignating clauses (i) and (ii) as clauses (I) and (II), respectively;

(3) by inserting "(i)" immediately after "(2)(A)";

(4) by adding at the end thereof the following:

"(ii) A bilateral narcotics agreement referred to in clause (i)(I) is an agreement between the United States and a foreign country whereby the foreign country agrees to take specific activities including but not limited to, efforts to reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution; drug interdiction and enforcement; drug consumption and treatment; identification of and elimination of illicit drug laboratories; identification and elimination of the trafficking of precursor chemicals for the use in production of illegal drugs; cooperation with United States drug enforcement officials; and, where applicable, participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.".

(b) The amendments made by paragraph (1) shall apply with respect to any certification of the President under section 481(h)(2)(A) of the Foreign Assistance Act of 1961 made on or after March 1, 1989.

(c) Beginning with certifications with respect to fiscal year 1989 and each subsequent year, a country which in the previous year was designated a major drug producing or drug-transit country may not be deemed as cooperating fully unless it has in place a bilateral narcotics agreement with the United States.

SPECIAL AMBASSADORIAL COMMISSION FOR CYPRUS AND THE AEGEAN

SEC. 586. (a) FINDINGS.—The Congress finds that—

(1) the inability to achieve a just and lasting Cyprus settlement will continue to affect relations among the United States and its close NATO allies, Greece and Turkey, to the detriment of larger, mutually shared, security interests in the Eastern Mediterranean region;

(2) it is of paramount importance that Cyprus, Greece, and Turkey resolve their differences through negotiations and otherwise peaceful procedures, and that the United States should support the resolution of these differences through all the diplomatic means at its disposal;

(3) it is in the national interest of the United States that the President make a significant new diplomatic demarche towards bringing this dispute to a resolution; and

(4) it is also in the national interest of the United States to undertake a diplomatic initiative to promote the peaceful and equitable resolution of differences between Greece and Turkey in the Aegean by fostering a renewed and sustained bilateral dialogue between those countries on such issues as: the delineation of the continental shelf, the definition of the territorial seas, air traffic control over the Aegean, NATO command and control arrangements in the Aegean, and the status of Lemnos and NATO exercises in the Aegean.

(b) APPOINTMENT OF SPECIAL AMBASSADOR.—The President is authorized to appoint a special ambassadorial level envoy who shall be responsible for representing the United States in direct negotiations with the parties to the Cyprus dispute, for representing the United States in negotiations through international intermediaries and, generally, lending the good offices of the United States to the parties in this dispute in order to facilitate a peaceful settlement on Cyprus. As agreed to by Greece and Turkey, the special envoy shall also represent the United States in promoting mutual discussions between those countries concerning their differences on Aegean issues. The special ambassador appointed under this section shall have available the services of two deputies (one to specialize on the Cyprus question, the other on general Aegean issues) and such senior level Department of State personnel as may be required by the special ambassador in order to carry out his responsibilities.

(c) REPORT.—Not later than June 1, 1988, the President shall submit a report to the Congress describing in detail the activities being undertaken by the special ambassador, the progress being made toward achievement of a peaceful resolution of the Cyprus dispute, an assessment of the obstacles to achievement of such a resolution and of the future role of the United States in acheiving a settlement on Cyprus, and an assessment of the progress being made toward resolution of issues affecting the Aegean region.

(d) FUNDING.—Up to $500,000 of the funds appropriated under any heading of this Act which are allocated for Greece and up to $500,000 of the funds appropriated under any heading of this Act which are allocated for Turkey, may be used by the Department of State for any administrative costs associated with the activities of the special ambassador and supporting personnel, including transportation, salaries and per diem.

DETENTION OF CHILDREN

SEC. 587. It is the sense of the Congress that the practice of detaining children without charge or trial is unjust, inhumane, and is an affront to civilized principles. The Congress further believes that it should be the policy of the United States to make the ending

of the practice of detaining children without charge or trial a matter of the highest priority. Therefore, the Congress believes the Secretary of State should convey to all international organizations that ending the practice of detaining children without charge or trial should be a policy of the highest priority for those organizations.

TRAINING ASSISTANCE FOR ARGENTINA AND BRAZIL

SEC. 588. (a) EXEMPTION FROM CERTAIN PROHIBITIONS.—Section 638 of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "(a)" before "No"; and

(2) by adding at the end the following:

"(b) No provision of this Act or any other provision of law shall be construed to prohibit assistance for any training activity which is funded under this Act for Brazil or Argentina as long as such country continues to have a democractically elected government and the assistance is otherwise consistent with sections 116, 502B, 620(f), 620A, and 660 of this Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(2) does not apply with respect to funds appropriated prior to the date of enactment of this Act.

PROHIBITION ON MILITARY ASSISTANCE TO MOZAMBIQUE

SEC. 589. Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available pursuant to this Act may be used to provide military assistance to Mozambique.

RESTRICTIONS ON ASSISTANCE TO MOZAMBIQUE

SEC. 590. Notwithstanding any other provision of law or this Act, none of the funds appropriated or otherwise made available by this Act may be made available to the Government of Mozambique unless the President reports to Congress on the extent to which:

(1) the Government of Mozambique has entered into a dialogue with the Catholic Church regarding the return of church property;

(2) the Government of Mozambique has taken steps to assure against future expropriation of private property without due process and just compensation;

(3) the number of Soviet and Eastern bloc military and security personnel are being reduced.

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988".

[*Total, Foreign Operations, Export Financing, and Related Programs, 1988:*

[*New budget (obligational) authority*	*$13,598,746,741.*]
[*Limitation on obligations*	*236,865,000.*]
[*Limitation on guaranteed loans*	*10,325,000,000.*]
[*Limitation on direct loans*	*725,000,000.*]
[*Limitation on callable capital*	*1,145,758,350.*]
[*Limitation on administrative expenses*	*19,500,000.*]
[*Limitation on program activity*	*200,000,000.*]
[*Rescission of loan authority*	*−32,000,000.*]

(Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988)

(f) Such amounts as may be necessary for programs, projects or activities provided for in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $7,887,405,000, to remain available until expended: *Provided,* That of the new budget authority provided herein, $130,200,000 shall be for the development or acquisition cost of public housing for Indian families; $210,923,000 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $1,685,732,500 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l); $1,519,257,600 shall be for assistance for projects developed for the elderly or handicapped under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q); $200,000,000 shall be for rental rehabilitation grants pursuant to section 17(a)(1)(A) of the Act (42 U.S.C. 1437o); $848,850,000 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f); $495,975,000 shall be for the section 8 moderate rehabilitation program (42 U.S.C. 1437f); and $1,167,367,650 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)), and shall be used without regard for the limitations in section 8(o)(1) that the Secretary conduct a voucher demonstration, and in section 8(o)(4) that the Secretary use substantially all voucher authority in connection with certain programs, but of that portion of such budget authority to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families who are involuntarily displaced, or who are or would be displaced in consequence of increased rents, as a result of rental rehabilitation program actions: *Provided further,* That of the amounts of budget authority that have been provided under this head in prior appropriations Acts, reserved or obligated for the development or acquisition cost of public housing other than for Indian families, for such costs for Indian families, for modernization of existing public housing projects, for rental rehabilitation grants, and for housing development grants under section 17(a)(1)(B) of the Act (42 U.S.C. 1437o), and recaptured during fiscal year 1988 (not including amounts that become available for rescission pursuant to section 4(c)(3) of the Act), an amount equal to such recaptured amount shall be made available for the respective purpose for which such recaptured amount was last reserved or obligated, but amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1988 shall be rescinded: *Provided further,* That any part of the new and recaptured budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of

$7,887,405,000

obsolete public housing projects other than for Indian families: *Provided further,* That new budget authority, amounts that are available for obligation as of October 1, 1987, and amounts (other than amounts to be rescinded) to which the second proviso hereof refers, shall be available until expended, except that for rental rehabilitation grants under section 17(a)(1)(A), new budget authority shall be available until September 30, 1990, and amounts equal to recaptured amounts, and amounts which are available for obligation as of October 1, 1987, shall be available for the respective time periods applicable to such recaptured amounts: *Provided further,* That amounts of funds for housing development grants as authorized by section 17(a)(1)(B) of the Act (42 U.S.C. 1437o) that were appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1985 (Public Law 98-371, 98 Stat. 1213-1215, amending Public Law 98-45, 97 Stat. 219-220) to become available in part during fiscal year 1984, and in part on October 1, 1984, shall remain available for obligation through September 30, 1988: *Provided further,* That amounts equal to recaptured amounts for housing development grants shall be made available during 1988 on the terms specified in the sixth proviso under this head in the Department of Housing and Urban Development appropriation for 1987 (section 101(g) of Public Laws 99-500 and 99-591, 100 Stat. 1783, 1783-242, 3341, 3341-242): *Provided further,* That section 17(d)(4)(G) of the Act is amended by striking "36 months" and inserting "48 months": *Provided further,* That any amounts of new budget authority provided under this head in prior appropriations Acts that are recaptured or carried over from one fiscal year to another which are available for use in fiscal year 1988 and thereafter shall be available as an appropriation of funds without regard to whether such budget authority has heretofore been available as an appropriation of funds: *Provided further,* That any amount of contract authority provided prior to fiscal year 1976 for any purpose authorized by the Act, as in effect prior to the effective date for amendments to such 1937 Act prescribed under section 201(b) of the Housing and Community Development Act of 1974 (Public Law 93-383, 88 Stat. 633, 667) and as in effect thereafter, that is not reserved or obligated on October 1, 1987, or that is recaptured during fiscal year 1988 or thereafter, is rescinded as of October 1, 1987, or upon recapture, as the case may be: *Provided further,* That none of the amounts under this head that are available for obligation in 1988 shall be subject to the provisions of section 213(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439).

−$204,700,000 *rescission*

[*Total, annual contributions for assisted housing (net), $7,682,705,000.*]

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1988 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

−52,000,000 *(rescission of contract authority, indefinite)*
−2,000,000 (limitation on annual contract authority, indefinite)

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

In fiscal year 1988, $565,776,000 of direct loan obligations may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), utilizing the resources of the fund authorized by subsection (a)(4) of such section, in accordance with paragraph (C) of such subsection: *Provided,* That such commitments shall be avail-

565,776,000 (limitation on direct loans)

able only to qualified nonprofit sponsors for the purpose of providing 100 per centum loans for the development of housing for the elderly or handicapped, with any cash equity or other financial commitments imposed as a condition of loan approval to be returned to the sponsor if sustaining occupancy is achieved in a reasonable period of time: *Provided further,* That the full amount shall be available for permanent financing (including construction financing) for housing projects for the elderly or handicapped: *Provided further,* That 25 percent of the direct loan authority provided herein shall be used only for the purpose of providing loans for projects for the handicapped: *Provided further,* That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein: *Provided further,* That, notwithstanding any other provision of law, the receipts and disbursements of the aforesaid fund shall be included in the totals of the Budget of the United States Government: *Provided further,* That, notwithstanding section 202(a)(3) of the Housing Act of 1959, loans made in fiscal year 1988 shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program: *Provided further,* That no direct loan authority under this head in this or any other appropriations Act shall be made available to fund HUD Project No. 023-EH273 (Milton, MA) unless the sponsor of such project identifies a site for such project, other than the site specified in the sponsor's application documents, that complies with the site standards and criteria of the Secretary.

$556,176,000
(authority to borrow)

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978, $4,224,000, to remain available until September 30, 1989. 4,224,000

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $1,450,000,000. 1,450,000,000

PUBLIC HOUSING DEVELOPMENT LOAN

The Bay City, Michigan, Housing Authority is hereby forgiven with respect to any requirement to repay the Secretary of Housing and Urban Development any excess principal and accrued interest associated with a loan for public housing development awarded in 1974, under the United States Housing Act of 1937 and designated as MI 24-7, and such loan is hereby cancelled.

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii) and section 106(a)(2) of the Housing and Urban Development Act of 1968, as amended, $3,360,000. 3,360,000

TROUBLED PROJECTS OPERATING SUBSIDY

For assistance payments to owners of eligible multifamily housing projects insured, or formerly insured, under the National Housing Act, as amended, in the program of operating subsidies for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, all uncommitted balances of excess rental charges and any collections after September 30, 1987, to remain available until September 30, 1989: *Provided,* That assistance payments to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

EMERGENCY SHELTER GRANTS PROGRAM

For the emergency shelter grants program, as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77, 101 Stat. 482, 495), $8,000,000, to remain available until expended. $8,000,000

TRANSITIONAL AND SUPPORTIVE HOUSING DEMONSTRATION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For the transitional and supportive housing demonstration program, as authorized under subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77, 101 Stat. 482, 498), $65,000,000 to remain available until expended: *Provided,* That of the foregoing amount, $750,000 shall be transferred to the Interagency Council on the Homeless for operations under title II of such Act (Public Law 100–77, 101 Stat. 482, 486): *Provided further,* That the provision in section 203(a)(4) of such Act that relates to employment of personnel in the regions shall not be implemented. 65,000,000

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z–3(b) and 1735c(f)), $162,866,000, to remain available until expended. 162,866,000

During fiscal year 1988, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended. −118,250,000 *(portion applied to debt reduction)*

During fiscal year 1988, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed a loan principal of $96,000,000,000. *96,000,000,000 (limitation on guaranteed loans)*

During fiscal year 1988, gross obligations for direct loans of not to exceed $79,272,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved. *79,272,000 (limitation on direct loans)*

Section 247(c)(1) of the National Housing Act is amended by inserting before the period at the end the following: "(or, in the case of an individual who succeeds a spouse or parent in an interest in a lease of Hawaiian homelands, such lower percentage as may be established for such succession under section 209 of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the constitution of the State of Hawaii adopted under section 4 of

the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 5))".

Section 247 of the National Housing Act is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other provision of this Act, the insurance of a mortgage using the authority contained in this section shall be the obligation of the General Insurance Fund established in section 519. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 204 with respect to mortgages insured pursuant to this section, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund; and (2) all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured.".

[*Total, Federal Housing Administration fund (net), $44,616,000.*]

NONPROFIT SPONSOR ASSISTANCE

During fiscal year 1988, within the resources and authority available, gross obligations for the principal amounts of direct loans shall not exceed $960,000. *$960,000 (limitation on direct loans)*

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES

During fiscal year 1988, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed $144,000,000,000 of loan principal. *144,000,000,000 (limitation on guaranteed loans)*

[*Total, Housing Programs (net), $9,762,081,000.*]

SOLAR ENERGY AND ENERGY CONSERVATION BANK

ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS

For financial assistance and other expenses, not otherwise provided for, to carry out the provisions of the Solar Energy and Energy Conservation Bank Act of 1980 (12 U.S.C. 3601), $1,500,000, to remain available until September 30, 1989: *Provided,* That the funds appropriated under this heading in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1985 (Public Law 98-371) shall remain available until September 30, 1988: *Provided further,* That all funds recaptured from prior year appropriations under this heading shall be reallocated to eligible financial institutions. 1,500,000

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grant program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $2,880,000,000 to remain available until September 30, 1990: *Provided,* That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds set aside in the next two following provisos) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further,* 2,880,000,000

That $5,000,000 shall be made available from the foregoing $2,880,000,000 to carry out a child care demonstration under section 222 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181): *Provided further,* That $1,000,000 shall be made available from the foregoing $2,880,000,000 to carry out a neighborhood development demonstration under section 123 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181).

During fiscal year 1988, total commitments to guarantee loans, as authorized by section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $144,000,000 of contingent liability for loan principal. *$144,000,000 (limitation on guaranteed loans)*

Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended by striking out the third sentence and inserting in lieu thereof the following: "Any unit of general local government that becomes eligible to be classified as a metropolitan city, and was not classified as a metropolitan city in the immediately preceding fiscal year, may, upon submission of written notification to the Secretary, defer its classification as a metropolitan city for all purposes under this title, if it elects to have its population included in an urban county under subsection (d). Notwithstanding the second sentence of this paragraph, a city may elect not to retain its classification as a metropolitan city for fiscal year 1988 or 1989.".

URBAN DEVELOPMENT ACTION GRANTS

For grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), pursuant to section 103 of that Act, $216,000,000, to remain available until September 30, 1991: *Provided,* That title 42, United States Code, section 5318(n)(2), is amended as follows: After the word "reservation" add the words ", or on former Indian reservations in Oklahoma as determined by the Secretary of the Interior,". 216,000,000

REHABILITATION LOAN FUND

During fiscal year 1988, collections, unexpended balances of prior appropriations (including any recoveries of prior reservations) and any other amounts in the revolving fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), after September 30, 1987, are available and may be used for commitments for loans and operating costs and the capitalization of delinquent interest on delinquent or defaulted loans notwithstanding section 312(h) of such Act: *Provided,* That none of the funds in this Act may be used to sell any loan asset that the Secretary holds as evidence of indebtedness under such section 312.

URBAN HOMESTEADING

For reimbursement to the Federal Housing Administration Fund or the Rehabilitation Loan Fund for losses incurred under the urban homesteading program (12 U.S.C. 1706e), and for reimbursement to the Administrator of Veterans Affairs and the Secretary of Agriculture for properties conveyed by the Administrator of Veterans Affairs and the Secretary of Agriculture, respectively, for use in connection with an urban homesteading program approved by the Secretary of Housing and Urban Development pursuant to section 810 of the Housing and Community Development Act of 1974, as amended, $14,400,000, to remain available until expended. 14,400,000

[*Total, Community Planning and Development, $3,110,400,000.*]

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $16,512,000, to remain available until September 30, 1989. $16,512,000

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, $4,800,000, to remain available until September 30, 1989. 4,800,000

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $4,000 for official reception and representation expenses, $666,251,000, of which $358,132,000 shall be provided from the various funds of the Federal Housing Administration: *Provided,* That during fiscal year 1988, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least 1,315 for Public and Indian Housing Programs. 308,119,000
358,132,000 (limitation on corporate funds)

[Total, title I, Department of Housing and Urban Development:
[New budget (obligational) authority (net) ..... $13,203,412,000.]
[Appropriations ..... 5,134,781,000.]
[Portion applied to debt reduction ..... −118,250,000.]
[Authority to borrow ..... 556,176,000.]
[Contract authority ..... 7,887,405,000.]
[Rescission of contract authority, indefinite ..... −256,700,000.]
[Limitation on annual contract authority, indefinite ..... −2,000,000.]
[Limitation on direct loans ..... 646,008,000.]
[Limitation on guaranteed loans ..... 240,144,000,000.]
[Limitation on corporate funds to be expended 358,132,000.]

TITLE II

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for

replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $12,408,000: *Provided,* That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further,* That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further,* That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further,* That section 409 of the general provisions carried in title IV of this Act shall not apply to the funds provided under this heading: *Provided further,* That not more than $125,000 of the private contributions to the Korean War Memorial Fund may be used for administrative support of the Korean War Veterans Memorial Advisory Board including travel by members of the board authorized by the Commission, travel allowances to conform to those provided by Federal travel regulations. $12,408,000

ADMINISTRATIVE PROVISION

TEMPORARY INVESTMENT IN GOVERNMENT SECURITIES OF AMOUNTS CONTRIBUTED FOR THE KOREAN WAR VETERANS MEMORIAL

SECTION 1. (a) IN GENERAL.—Section 3(a) of the Act entitled "An Act to authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean war", approved October 28, 1986 (40 U.S.C. 1003 note), is amended by adding at the end the following new paragraphs:

"(2) There is established in the Treasury a fund which shall be available to the American Battle Monuments Commission for expenses of establishing the memorial. The fund shall consist of (A) amounts deposited, and interest and proceeds credited, under paragraph (3), and (B) obligations obtained under paragraph (4).

"(3) The Chairman of the Commission shall deposit in the fund such amounts from private contributions as may be accepted under paragraph (1). The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund.

"(4) The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Chairman of the Commission, is not required to meet current expenses. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Chairman of the Commission, has a maturity suitable for the fund.

"(5) If, upon payment of all expenses of establishment of the memorial as provided by law, there remains a balance in the fund, the Chairman of the Commission shall deposit the amount of the balance in the general fund of the Treasury as a miscellaneous receipt.".

(b) TECHNICAL AMENDMENTS.—Section 3 of such Act is amended—

(1) by striking out "SEC. 3. (a)" and inserting in lieu thereof "SEC. 3. (a)(1)";

(2) in subsection (a)(1), as so redesignated by paragraph (1) of this subsection, by striking out the last sentence; and

(3) by striking out subsection (c).

CORRECTION OF SUPERSEDED CROSS REFERENCE

SEC. 2. The second sentence of section 1 of the Act entitled "An Act to authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean war", approved October 28, 1986 (40 U.S.C. 1003 note), is amended by striking out "the provisions of" and all that follows through the end of the sentence and inserting in lieu thereof "the Act entitled 'An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes', approved November 14, 1986 (40 U.S.C. 1001 et seq.).".

CLARIFICATION OF RELATED PROVISION

SEC. 3. The first sentence of section 3(a) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1003(a)) is amended by striking out "Act of Congress" and inserting in lieu thereof "law".

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18, and not to exceed $500 for official reception and representation expenses, $32,696,000: *Provided,* That no more than $300,000 of these funds shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission appointed pursuant to 15 U.S.C. 2053: *Provided further,* That none of these funds shall be available for conducting or reviewing cost/benefit analyses on enforcement actions of the Consumer Product Safety Commission. $32,696,000

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of one passenger motor vehicle for replacement only, and not to exceed $1,000 for official reception and representation expenses; $8,164,000, to remain available until expended: *Provided,* That in addition to the foregoing appropriation, $1,000,000 of unobligated balances of funds previously appropriated to the Department of the Army, Corps of Engineers—Civil for "Construction, general" shall, upon enactment of this Act, be transferred to and merged with the funds available under this head and such transferred funds shall remain available until expended. 8,164,000

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; hire, maintenance, and operation of

aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $25,000 per project; and not to exceed $3,000 for official reception and representation expenses; $765,000,000: *Provided,* That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913). $765,000,000

RESEARCH AND DEVELOPMENT

For research and development activities, $186,350,000, to remain available until September 30, 1989: *Provided,* That not more than $2,000,000 of these funds shall be available for replacement of laboratory equipment. 186,350,000

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, $606,192,000, of which $40,000,000 shall be available for the purposes of the Asbestos School Hazards Abatement Act of 1984, as amended, including not more than $15,000,000 to defray the costs of school asbestos reinspections and management plans required by section 2 of the Asbestos Hazard Emergency Response Act of 1986 and not more than $2,400,000 for administrative expenses, with all of such funds to remain available until September 30, 1989: *Provided,* That school asbestos abatement loan and grant awards shall be made no later than March 1, 1988: *Provided further,* That none of the funds appropriated under this head shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further,* That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949): *Provided further,* That not more than $2,000,000 of these funds shall be available for replacement of laboratory equipment: *Provided further,* That section 320(a)(2)(B) of the Federal Water Pollution Control Act is amended by inserting "Santa Monica Bay, California;" after "San Francisco Bay, California;". 606,192,000

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, $23,500,000, to remain available until expended: *Provided,* That the appropriating paragraph under this head in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1987, as made effective by section 101(g) of Public Laws 99–500 and 99–591, is amended by repealing the following: "$2,000,000 shall be for construction of a laboratory addition at the Environmental Research Center at the University of Nevada, Las Vegas, and". 23,500,000

[*Subtotal, operating programs, $1,581,042,000.*]

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), $1,128,000,000 to be derived from the Hazardous Substance Superfund, consisting of $888,900,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and $239,100,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, with all of such funds to remain available until expended: *Provided,* That funds appropriated under this account may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA, as amended: *Provided further,* That none of the funds appropriated under this heading shall be available for sections 111(b), (c)(1), or (c)(2) of CERCLA, as amended: *Provided further,* That, notwithstanding section 111(m) of CERCLA, as amended, or any other provision of law, not to exceed $43,000,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), 111(c)(14), and 118(f) of SARA: *Provided further,* That no more than $182,400,000 of these funds shall be available for administrative expenses: *Provided further,* That title I of CERCLA, as amended by section 119 of SARA, is amended by adding the following subparagraph to section 119(e)(2)(A): "(iii) Recipients of grants (including sub-grantees) under section 126 for the training and education of workers who are or may be engaged in activities related to hazardous waste removal, containment, or emergency response under this Act; and": *Provided further,* That section 126(d)(3) of SARA is amended by adding a new sentence at the end thereof as follows: "The certification procedures shall be no less comprehensive than those adopted by the Environmental Protection Agency in its Model Accreditation Plan for Asbestos Abatement Training as required under the Asbestos Hazard Emergency Response Act of 1986.".

$1,128,000,000

182,400,000 (limitation on administrative expenses)

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, $14,400,000, to remain available until expended: *Provided,* That no more than $4,800,000 shall be available for administrative expenses.

14,400,000

4,800,000 (limitation on administrative expenses)

CONSTRUCTION GRANTS

For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, other than sections 201(m)(1-3), 201(n)(2), 206, 208, and 209, $2,304,000,000, to remain available until expended.

2,304,000,000

ADMINISTRATIVE PROVISIONS

None of the funds in this Act shall be available for any indemnity payment under section 15 of the Federal Insecticide, Fungicide, and Rodenticide Act.

Not to exceed $25,000,000 in fees and charges is authorized to be assessed and collected by the Administrator in fiscal year 1988 for services and activities carried out pursuant to the statutes which are administered by the Environmental Protection Agency for deposit in a special fund in the U.S. Treasury which shall be available for appropriation, to remain available until expended, to carry out the Agency's activities in the programs for which the fees or charges are made.

No restriction or prohibition on construction, permitting, or funding under sections 110(a)(2)(I), 173(4), 176(a), 176(b), or 316 of the Clean Air Act shall be imposed or take effect during the period prior to August 31, 1988, by reason of (1) the failure of any nonattainment area to attain the national primary ambient air quality standard under the Clean Air Act for photochemical oxidants (ozone) or carbon monoxide (or both) by December 31, 1987, (2) the failure of any State to adopt and submit to the Administrator of the Environmental Protection Agency an implementation plan that meets the requirements of part D of title I of such Act and provides for attainment of such standards by December 31, 1987, (3) the failure of any State or designated local government to implement the applicable implementation plan, or (4) any combination of the foregoing. During such period and consistent with the preceding sentence, the issuance of a permit (including required offsets) under section 173 of such Act for the construction or modification of a source in a nonattainment area shall not be denied solely or partially by reason of the reference contained in section 171(1) of such Act to the applicable date established in section 172(a). This subsection shall not apply to any restriction or prohibition in effect under sections 110(a)(2)(I), 173(4), 176(a), 176(b), or 316 of such Act prior to the enactment of this section. Prior to August 31, 1988, the Administrator of the Environmental Protection Agency shall evaluate air quality data and make determinations with respect to which areas throughout the nation have attained, or failed to attain, either or both of the national primary ambient air quality standards referred to in subsection (a) and shall take appropriate steps to designate those areas failing to attain either or both of such standards as nonattainment areas within the meaning of part D of title I of the Clean Air Act.

Notwithstanding any other provision of law, none of the funds made available by this or any other appropriations Act shall be available to the Environmental Protection Agency prior to September 15, 1988, for the purpose of cancellation or suspension of any pesticide registration for failure of any manufacturer, formulator, registrant or user to comply with PR Notices 87-4 and 87-5 relating to labeling of such substances, nor for the purpose of enforcement actions against any user of any pesticide whose use is substantially in conformance with label instructions in existence as of August 1, 1987, related to endangered species, as cited in PR Notices 87-4 and 87-5, nor to propose or order any other revision in such labeling for the reasons cited in PR Notices 87-4 and 87-5, except that the Agency may propose revision where there is no disagreement between the Agency and the State departments relevant to implementation in that State.

[*Total, Environmental Protection Agency, $5,027,442,000.*]

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, including not to exceed $500 for official reception and representation expenses, and hire of passenger motor vehicles, $826,000. $826,000

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $1,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $1,888,000: *Provided*, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it. $1,888,000

[*Total, Executive Office of the President, $2,714,000.*]

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the functions of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), $120,000,000, to remain available until expended. 120,000,000

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government program to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $1,500 for official reception and representation expenses, $125,841,000. 125,841,000

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, $272,496,000. 272,496,000

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $9,496,000 shall, upon enactment of this Act, be transferred to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $43,392,000 shall, upon enactment of this Act, be transferred to the "Emergency management planning and assistance" appropriation for flood plain management activities,

including $4,531,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1989. In fiscal year 1988, no funds in excess of (1) $38,000,000 for operating expenses, (2) $137,765,000 for agents' commissions and taxes, and (3) $2,537,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $114,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100-77: *Provided,* That total administrative costs shall not exceed three and one-half per centum of the total appropriation. $114,000,000

[*Total, Federal Emergency Management Agency, $632,337,000.*]

General Services Administration

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $1,279,000, to be deposited into the Consumer Information Center Fund: *Provided,* That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $5,140,000. Administrative expenses of the Consumer Information Center in fiscal year 1988 shall not exceed $1,652,000. Appropriations, revenues and collections accruing to this fund during fiscal year 1988 in excess of $5,140,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts. 1,279,000

1,652,000 (limitation on administrative expenses)

Department of Health and Human Services

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $1,670,000. 1,670,000

National Aeronautics and Space Administration

RESEARCH AND DEVELOPMENT

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $3,374,200,000, to remain available until September 30, 1989, of which $100,000,000 shall be derived by transfer from funds appropriated in section 101(g) of Public Law 99-591 for orbiter production: *Provided,* That of the funds made available by this Act, $225,000,000 is for space station only, which amount shall not become available for obligation until June 1, 1988, and pursuant to section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change. 3,274,200,000

100,000,000 (by transfer)

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For necessary expenses, not otherwise provided for; in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft; $3,908,309,000, to remain available until September 30, 1989, including not to exceed $28,000,000 for expendable launch vehicles which shall be available only for the purchase of two Delta II vehicles for the launch of the Roentgen satellite (ROSAT) and the Extreme Ultraviolet Explorer (EUVE). $3,908,309,000

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, $178,272,000, to remain available until September 30, 1990: *Provided,* That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriations Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further,* That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further,* That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities. 178,272,000

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); awards; lease, hire, maintenance and operation of administrative aircraft; purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of $100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; $1,495,680,000: *Provided,* That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal 1,495,680,000

year: *Provided further,* That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive: *Provided further,* That apportionments granted pursuant to this Act for the appropriations to the National Aeronautics and Space Administration shall reflect the moving of up to $245,000,000 (on an annual basis) in institutional costs from the "Research and development" and "Space flight, control and data communications" accounts to the "Research and program management" account.

[*Total, National Aeronautics and Space Administration, $8,856,461,000.*]

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1988, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided,* That administrative expenses of the Central Liquidity Facility in fiscal year 1988 shall not exceed $813,000.

$600,000,000 (limitation on direct loans)

813,000 (limitation on administrative expenses)

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of one aircraft; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; $1,453,000,000, to remain available until September 30, 1989: *Provided,* That of the funds appropriated in this Act, $1,000,000 shall be available only for the International Institute for Applied Systems Analysis, and that, notwithstanding any other provision of law, the Director may choose not to obligate these funds for that purpose: *Provided further,* That of the funds appropriated in this Act, or from funds appropriated previously to the Foundation, not more than $84,480,000 shall be available for program development and management in fiscal year 1988: *Provided further,* That none of the funds appropriated in this Act may be used, directly or through grants, contracts, or other award mechanisms, for agreements executed after enactment of this Act, to pay or to provide reimbursement for the Federal portion of the salary of any individual functioning as a Federal employee at more than the daily equivalent of the maximum rate paid for ES–6 for assignments to Senior Executive Service positions, unless specifically authorized by law: *Provided further,* That contracts may be entered into under the program development and management limitation in fiscal year 1988 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,* That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this

1,453,000,000

84,480,000 (limitation on administrative expenses)

appropriation: *Provided further,* That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

UNITED STATES ANTARCTIC PROGRAM ACTIVITIES

For necessary expenses in carrying out the research and operational support for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $1,000 for official reception and representation expenses; $124,800,000, to remain available until expended: *Provided,* That receipts for support services and materials provided to individuals for non-Federal activities may be credited to this appropriation: *Provided further,* That no funds in this account shall be used for the purchase of aircraft. $124,800,000

SCIENCE EDUCATION ACTIVITIES

For necessary expenses in carrying out science and engineering education programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including award of graduate fellowships, services as authorized by 5 U.S.C. 3109, and rental of conference rooms in the District of Columbia, $139,200,000, to remain available until September 30, 1989: *Provided,* That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally. 139,200,000

[*Total, National Science Foundation, $1,717,000,000.*]

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107), $18,720,000. 18,720,000

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101-4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $25,459,000: *Provided,* That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further,* That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States. 25,459,000

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 412, 777, and 806, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540-548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $14,334,287,000, to remain available until expended. $14,334,287,000

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34-36, 39, 51, 53, 55, and 61), $625,700,000, to remain available until expended. 625,700,000

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, and service-disabled veterans insurance, as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $14,290,000, to remain available until expended. 14,290,000

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Veterans Administration, including care and treatment in facilities not under the jurisdiction of the Veterans Administration, and furnishing recreational facilities, supplies and equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Veterans Administration facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Veterans Administration, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); $10,094,808,000, plus reimbursements: *Provided,* That of the sum appropriated, $6,400,000,000 is available only for expenses in the personnel compensation and benefits object classifications: *Provided further,* That, during fiscal year 1988, jurisdictional average employment shall not exceed 37,700 for administrative support. 10,094,808,000

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law, to remain available until September 30, 1989, $192,899,000, plus reimbursements. 192,899,000

MEDICAL ADMINISTRATION AND MISCELLANEOUS

OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law, $46,628,000, plus reimbursements. $46,628,000

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Veterans Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $3,000 for official reception and representation expenses; cemeterial expenses as authorized by law; purchase of six passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $762,810,000, including $508,500,000 for the Department of Veterans Benefits: *Provided,* That, during fiscal year 1988, jurisdictional average employment shall not be less than 12,915 for the Department of Veterans Benefits: *Provided further,* That none of the funds appropriated by this or any other Act shall be obligated to effect the closing of the St. Paul Insurance Center during the period beginning on the date of the enactment into law of this Act and ending on September 30, 1988: *Provided further,* That $26,700,000 of the sum appropriated is for contracts in amounts not less than $1,000,000 for the acquisition of automated data processing equipment and services to support the modernization program in the Department of Veterans Benefits and shall remain available until September 30, 1989. 762,810,000

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, including planning, architectural and engineering services, and site acquisition, where the estimated cost of a project is $2,000,000 or more or where funds for a project were made available in a previous major project appropriation, $402,884,000, to remain available until expended: *Provided,* That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further,* That funds provided in the appropriation "Construction, major projects" for fiscal year 1988, for each approved project shall be obligated (1) by the awarding of a working drawings contract by September 30, 1988, and (2) by the awarding of a construction contract by September 30, 1989: *Provided further,* That the Administrator shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further,* That no funds from any other account, except the "Parking garage revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial 402,884,000

occupancy by the Veterans Administration of the project or any part thereof with respect to that part only: *Provided further,* That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Veterans Administration medical facility must certify that the design of such project is acceptable from a patient care standpoint: *Provided further,* That $2,500,000 of the unobligated balances under this heading shall be available for the settlement of a contractor's claim arising from the construction of a Replacement Hospital and Research Building at the Veterans Administration Medical Center, Bronx, New York.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, including planning, architectural and engineering services, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, where the estimated cost of a project is less than $2,000,000, $115,942,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $2,000,000: *Provided,* That not more than $40,774,000 shall be available for expenses of the Office of Facilities, including research and development in building construction technology: *Provided further,* That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Veterans Administration which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

$115,942,000

40,774,000 (limitation on administrative expenses)

PARKING GARAGE REVOLVING FUND

For the parking garage revolving fund as authorized by law (38 U.S.C. 5009), $3,936,000, together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 5009 except operations and maintenance costs which will be funded from "Medical care".

3,936,000

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 5031-5037), $40,320,000, to remain available until September 30, 1990.

40,320,000

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $480,000, to remain available until September 30, 1989.

480,000

DIRECT LOAN REVOLVING FUND

During 1988, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans is authorized for specially adapted housing loans (38 U.S.C. chapter 37). *$1,000,000 (limitation on direct loans)*

LOAN GUARANTY REVOLVING FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title), $389,800,000, to remain available until expended. 389,800,000

During 1988, the resources of the loan guaranty revolving fund shall be available for expenses for property acquisitions, payment of participation sales insufficiencies, and other loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title): *Provided*, That the unobligated balances, including retained earnings of the direct loan revolving fund, shall be available, during 1988, for transfer to the loan guaranty revolving fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund, and the Administrator of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer.

During 1988, with the resources available, gross obligations for direct loans and total commitments to guarantee loans are authorized in such amounts as may be necessary to carry out the purposes of the "Loan guaranty revolving fund".

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Not to exceed 5 per centum of any appropriation for 1988 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations, but not to exceed 10 per centum of the appropriations so augmented.

Appropriations available to the Veterans Administration for 1988 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Veterans Administration (except the appropriations for "Construction, major projects" and "Construction, minor projects") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Administrator of Veterans Affairs.

Appropriations available to the Veterans Administration for fiscal year 1988 for "Compensation and pensions", "Readjustment benefits", "Veterans insurance and indemnities", and the "Loan guaranty revolving fund" shall be available for payment of prior year

accrued obligations required to be recorded by law against the aforementioned accounts within the last quarter of fiscal year 1987.

[*Total, Veterans Administration, $27,024,784,000.*]

[*Total, title II, Independent Agencies:*

[*New budget (obligational) authority* ..... *$43,361,134,000.*]

[*By transfer* ..... *100,000,000.*]

[*Limitation on administrative expenses* ..... *314,106,000.*]

[*Limitation on direct loans* ..... *601,000,000.*]

[*Limitation on corporate funds* ..... *813,000.*]

TITLE III

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development and the Federal Home Loan Bank Board which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1988 for such corporation or agency except as hereinafter provided: *Provided,* That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

Federal Home Loan Bank Board

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL HOME LOAN BANK BOARD

$30,313,000 (limitation on administrative expenses)

Not to exceed a total of $30,313,000 shall be available for administrative expenses of the Federal Home Loan Bank Board for procurement of services as authorized by 5 U.S.C. 3109, and contracts for such services with one organization may be renewed annually, and uniforms or allowances therefor in accordance with law (5 U.S.C. 5901–5902), and said amount shall be derived from funds available to the Federal Home Loan Bank Board, including those in the Federal Home Loan Bank Board revolving fund and receipts of the Board for the current fiscal year, of which not to exceed $800,000 shall be available for purposes of training State examiners and not to exceed $1,500 shall be available for official reception and representation expenses: *Provided,* That members and alternates of the Federal Savings and Loan Advisory Council may be compensated subject to the provisions of section 7 of the Federal Advisory Committee Act, and shall be entitled to reimbursement from the Board for transportation expenses incurred in attendance at meetings of or concerned with the work of such Council and may be paid in lieu of subsistence per diem not to exceed the dollar amount set forth in 5 U.S.C. 5703: *Provided further,* That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the expenses and other obligations of the Board shall be incurred, allowed, and paid in accordance with the provisions of the Federal Home Loan Bank Act of 1932, as amended (12 U.S.C. 1421–1449).

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

$1,610,000 (limitation on administrative expenses)

Not to exceed $1,610,000 shall be available for administrative expenses, which shall be on an accrual basis and shall be exclusive of interest paid, depreciation, properly capitalized expenditures, expenses in connection with liquidation of insured institutions or activities relating to section 406(c), 407, or 408 of the National Housing Act, liquidation or handling of assets of or derived from insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of insured institutions, legal fees and expenses and payments for expenses of the Federal Home Loan Bank Board determined by said Board to be properly allocable to said Corporation, and said Corporation may utilize and may make payments for services and facilities of the Federal home loan banks, the Federal Reserve banks, the Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, and other agencies of the Government: *Provided*, That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the administrative expenses and other obligations of said Corporation shall be incurred, allowed, and paid in accordance with title IV of the Act of June 27, 1934, as amended (12 U.S.C. 1724–1730f).

ADMINISTRATIVE PROVISION

Any cooperative bank established under the law of any State which was directed by the State banking authority of such State to obtain Federal deposit insurance between January 1, 1985, and January 1, 1987, shall be deemed to be an insured institution described in section 21(f)(4)(F) of the Federal Home Loan Bank Act.

[*Total, title III, Corporations (limitation on corporate funds to be expended), $31,923,000.*]

TITLE IV

GENERAL PROVISIONS

SEC. 401. Where appropriations in titles I and II of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans Administration; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Disaster Relief Act of 1974; to site-related travel performed in connection with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; to site-related travel under the Solid Waste Disposal Act, as amended; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further*, That if appropriations in titles I and II exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the

current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal home loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretary of the Department of Housing and Urban Development, who, under title 5, United States Code, section 101, is exempted from such limitation.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided,* That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 408. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS–18, unless specifically authorized by law.

SEC. 409. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations.

SEC. 410. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 411. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 412. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 413. Except as otherwise provided in section 406, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 414. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 415. None of the funds appropriated by this Act or any other Act for any fiscal year shall be used for demolishing George Loving Place, at 3320 Rupert Street, Edgar Ward Place, at 3901 Holystone, Elmer Scott Place, at 2600 Morris, in Dallas, Texas, or Allen Parkway Village, 1600 Allen Parkway, in Houston, Texas.

This Act may be cited as the "Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988".

[*Total, Housing and Urban Development—Independent Agencies Appropriations, 1988:*

[*New budget (obligational) authority (net)*	*$56,564,546,000.*]
[*Appropriations*	*48,495,915,000.*]
[*Portion applied to debt reduction*	*−118,250,000.*]
[*Authority to borrow*	*556,176,000.*]
[*Contract authority*	*7,887,405,000.*]
[*Rescission of contract authority, indefinite*	*−256,700,000.*]
[*By transfer*	*100,000,000.*]
[*Limitation on administrative expenses*	*314,106,000.*]
[*Limitation on annual contract authority, indefinite*	*−2,000,000.*]
[*Limitation on direct loans*	*1,247,008,000.*]
[*Limitation on guaranteed loans*	*240,144,000,000.*]
[*Limitation on corporate funds to be expended*	*390,868,000.*]

(g) Such amounts as may be necessary for programs, projects or activities provided for in the Department of the Interior and Related Agencies Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows: *(Department of the Interior and Related Agencies Appropriations Act, 1988)*

AN ACT

Making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—DEPARTMENT OF THE INTERIOR

Bureau of Land Management

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $498,983,000, of which $75,000,000 for firefighting and repayment to other appropriations from which funds were transferred under the authority of section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1987, as contained in Public Law 99-591, shall remain available until expended: *Provided,* That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors. $498,983,000

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $3,430,000, to remain available until expended. 3,430,000

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901-07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses. 105,000,000

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94-579 including administrative expenses and acquisition of lands or waters, or interest therein, $8,885,000, to be derived from the Land and Water Conservation Fund, to remain available until expended. 8,885,000

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $58,475,000, to remain available until expended: *Provided,* That the amount appropriated herein for road construction shall be transferred to the Federal Highway Administration, Department of Transportation: *Provided further,* That 25 per 58,475,000

centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315, et seq.), but not less than $8,506,000 (43 U.S.C. 1901), and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, to remain available until expended: *Provided,* That not to exceed $600,000 shall be available for administrative expenses. $8,506,000 *(indefinite)*

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended: *Provided,* That notwithstanding any provision to the contrary of subsection 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that subsection, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to subsection 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: *Provided further,* That such moneys are in excess of amounts needed to repair damage to the exact land for which collected. 7,195,000 *(indefinite)*

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended. 100,000 *(indefinite)*

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary

structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $25,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided,* That appropriations herein made for Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further,* That appropriations herein made may be expended for surveys of Federal lands of the United States and on a reimbursable basis for surveys of Federal lands of the United States and for protection of lands for the State of Alaska: *Provided further,* That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: *Provided further,* That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Bureau: *Provided further,* That section 1(b) of the Act of October 17, 1984 entitled "An Act to withdraw certain public lands in Lincoln County, Nevada" (Public Law 98-485), is amended by striking out "December 31, 1987" and inserting in lieu thereof "March 31, 1988".

Notwithstanding any court order now or hereafter in effect, the Secretary of the Interior, through the State Director, Utah, Bureau of Land Management, is authorized to negotiate with the appropriate government officials in the State of Utah and to take any action necessary under the Federal Land Policy and Management Act and other applicable laws to consummate an exchange of Federal lands and improvements thereon identified as tracts U-a and U-b, for State lands of equal value if the Secretary determines that such an exchange is in the public interest. Any exchange involving such lands shall include the transfer of the remaining balance of funds conveyed to the Bureau of Land Management for the management and protection of the tracts U-a and U-b: *Provided,* That use of such funds shall be restricted to management and protection of the tracts.

Notwithstanding any court order now or hereafter in effect, the Secretary of the Interior is authorized to revoke the Bureau of Reclamation's Dixie project withdrawal, created by Commissioner's order of June 11, 1943; Public Land Order No. 1868 of June 3, 1959; Public Land Order No. 4036 of June 6, 1966; and Public Land Order No. 4061 of July 18, 1966, and to complete any land actions with regard to those lands required under the Federal Land Policy and Management Act and other applicable laws and that the Secretary determines to be in the public interest.

[*Total, Bureau of Land Management, $690,574,000.*]

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $342,594,000, of which $4,300,000, to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended; and of which $6,528,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and shall remain available until expended. $342,594,000

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; $25,062,000, to remain available until expended, of which $2,000,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a-757g): *Provided,* That notwithstanding any other provision of law, a procurement for the Northeast Anadromous Fish Laboratory shall be issued which includes the full scope of the previously issued procurement for the facility: *Provided further,* That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232-18. 25,062,000

MIGRATORY BIRD CONSERVATION ACCOUNT

For an advance to the migratory bird conservation account, as authorized by the Act of October 4, 1971, as amended (16 U.S.C 715k-3, 5), $1,000,000, to remain available until expended. 1,000,000

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $51,754,000, to be derived from the Land and Water Conservation Fund, to remain available until expended. 51,754,000

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $5,645,000. 5,645,000

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 145 passenger motor vehicles, of which 144 are for replacement only (including 41 for police-type use); not to exceed $400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided,* That the United States Fish and Wildlife Service may accept donated aircraft as replacements for existing aircraft.

[*Total, United States Fish and Wildlife Service, $426,055,000.*]

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $424,000 for the Roosevelt Campobello International Park Commission and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $730,799,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), of which $2,000,000 to remain available until expended shall be made available to the Martin Luther King, Jr. Center for the Study of Nonviolent Social Change for rehabilitation of the birth home of Martin Luther King, Jr. and for purchase of the vacant lot on the north side of Irwin Street between Jackson and Boulevard for a landscaped parking lot: *Provided,* That the National Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: *Provided further,* That none of these funds may be used to compensate a quantity of staff greater than existed as of May 1, 1986, in the Office of Legislative and Congressional Affairs of the National Park Service or to compensate individual staff members assigned subsequent to May 1, 1986, at grade levels greater than the staff replaced: *Provided further,* That to advance the mission of the National Park Service for a period of time not to extend beyond fiscal year 1988, the Secretary of the Interior is authorized to charge park entrance fees for all units of the National Park System, except as provided herein, of an amount not to exceed $3 for a single visit permit as defined in 36 CFR 71.7(b)(2) and of an amount not to exceed $5 for a single visit permit as defined in 36 CFR 71.7(b)(1): *Provided further,* That the cost of a Golden Eagle Passport as defined in 36 CFR 71.5 is increased to a reasonable fee

$730,799,000

but not to exceed $25 until September 30, 1988: *Provided further,* That for units of the National Park System where entrance fees are charged the Secretary shall establish an annual admission permit for each individual park unit for a reasonable fee but not to exceed $15, and that purchase of such annual admission permit for a unit of the National Park System shall relieve the requirement for payment of single visit permits as defined in 36 CFR 71.7(b): *Provided further,* That all funds derived from National Park Service recreation fees during fiscal year 1988, and all funds collected by the National Park Service during fiscal year 1988 under subsections (a), (b), and (c) of section 4 of the Land and Water Conservation Fund Act of 1965, as amended, shall be transferred to the General Fund of the Treasury of the United States: *Provided further,* That notwithstanding any other provision of this Act, no admission fee may be charged at any unit of the National Park System which provides significant outdoor recreation opportunities in an urban environment and to which access is publicly available at multiple locations, nor shall an admission fee be charged at any unit of the National Park System which has a current, specific statutory exemption: *Provided further,* That where entrance fees are established on a per person basis, children 16 and under shall be exempt from the fees: *Provided further,* That if permanent statutory language is enacted during fiscal year 1988 establishing entrance fees for the National Park System either prior to or subsequent to enactment of this Act, such permanent authorizing language shall supersede the provisions on recreation fees contained in this Act: *Provided further,* That of the amounts appropriated under this head, $15,000,000 shall be distributed to units of the National Park System, to be available for resource protection, research, interpretation, and maintenance activities related to resource protection, to be distributed in the following manner: 50 percent shall be allocated to each unit of the System based on each unit's proportion of the total budgeted in the prior fiscal year for park operating expenses, and 50 percent shall be allocated to units collecting user fees or entrance fees based on each unit's proportion of the total entrance and user fee revenues collected during the prior fiscal year: *Provided further,* That when authorized by the head of the collecting agency, volunteers may sell permits and collect fees authorized or established pursuant to section 4 of the Land and Water Conservation Fund Act of 1965, and funds appropriated or otherwise available to the collecting agency shall be available to cover the cost of any surety bond as may be required of any such volunteer in performing such authorized services under that section: *Provided further,* That notwithstanding any other provision of law, Public Law 96–565 is amended by adding the following at the end of section 104(a): "The Secretary may lease from the Department of Hawaiian Home Lands said trust lands until such time as said lands may be acquired by exchange as set forth herein or otherwise acquired. The Secretary may enter into such a lease without regard to fiscal year limitations.": *Provided further,* That none of the funds appropriated to the National Park Service shall be used to remove, obstruct, dewater, fill or otherwise damage the Brooks River fish ladder in the Katmai National Park, Alaska: *Provided further,* That $85,000 shall be available to assist the town of Harpers Ferry, West Virginia, for police force use: *Provided further,* That funds appropriated to the National Park Service may be used for the purchase or hire of personnel services without regard to personnel laws as contained in title V of the United States Code, only to provide for the orderly transition from regional finance offices to a central finance office.

[*Total, operation of the National Park System (net), $695,799,000.*]

—$35,000,000
(park receipts transfer to general fund, indefinite)

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, $12,935,000. $12,935,,000

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $28,250,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1989: *Provided,* That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance as authorized under 16 U.S.C. 470w(2): *Provided further,* That pursuant to section 105(1) of the Compact of Free Association, Public Law 99–239, the Federated States of Micronesia and the Republic of the Marshall Islands shall also be considered States for purposes of this appropriation: *Provided further,* That $1,000,000 of the amount appropriated herein shall remain available until expended to establish a Bicentennial Lighthouse Fund, to be distributed on a matching grant basis after consultation among the National Park Service, the National Trust for Historic Preservation, State Historic Preservation Officers from States with resources eligible for financial assistance, and the lighthouse community. Consultation shall include such matters as a distribution formula, timing of grant awards, a redistribution procedure for grants remaining unobligated longer than two years after the award date, and related implementation policies. The distribution formula for fiscal year 1988 shall include consideration of such factors as— 28,250,000

(A) the number of lighthouses on or determined to be eligible for listing on the National Register of Historic Places by March 30, 1988;

(B) the number of river lights and number of historic river sites on or determined to be eligible for listing on the National Register by March 30, 1988; and

(C) the availability of matching contributions in the State: *Provided further,* That the Secretary shall allocate appropriate funds from the Bicentennial Lighthouse Fund to be transferred, without the matching requirement, for use by Federal agencies, in cooperative agreements with the National Park Service and the State Office of Historic Preservation in which the property is located, for properties otherwise eligible for the National Register but owned by the Federal Government.

URBAN PARK AND RECREATION FUND

(RESCISSION)

Of the amounts previously appropriated under this head and unobligated, $1,900,000 is hereby rescinded. −1,900,000 *(rescission)*

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), $93,017,000, to remain available until expended, of which $4,700,000 shall be derived by transfer from the National Park System Visitor Facilities Fund, including $1,500,000 to carry out the provisions of sections 302, 303, and 304 of Public Law 95–290 and not to exceed $300,000 for assistance to Mariposa County, California for a solid waste disposal facility: *Provided,* That the National Park Service may not pay a fee for use of the facility at 93,017,000

rates higher than for other users of the facility: *Provided further,* That for payment of obligations incurred for continued construction of the Cumberland Gap Tunnel, as authorized by section 160 of Public Law 93-87, $31,000,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, such contract authority to remain available until expended. *$31,000,000 (liquidation of contract authority)*

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 1988 by 16 U.S.C. 460l-10a is rescinded. −30,000,000 *(rescission)*

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $60,749,000 to be derived from the Land and Water Conservation Fund, to remain available until expended, including $3,433,000 to administer the State Assistance program and $300,000 for acquisition of the Zane Grey House and personal effects at the Upper Delaware Scenic and Recreation River: *Provided,* That of the amounts previously appropriated to the Secretary's contingency fund for grants to States, $27,000 shall be available in 1988 for administrative expenses of the State grant program: *Provided further,* That notwithstanding any other provisions of the Land and Water Conservation Fund Act of 1965, Public Law 88-578, as amended, or other law, Land and Water Conservation Fund assisted land in Pine Bluff, Arkansas, assisted under project No. 05-00128 and No. 05-00196, may be exchanged for existing public lands if Land and Water Conservation Fund conversion criteria regarding equal fair market value and reasonably equivalent use and location are met: *Provided further,* That any federally-owned land in War in the Pacific National Historical Park that hereafter becomes excess to the needs of the administering agency shall be transferred to the jurisdiction of the National Park Service, without reimbursement, for purposes of the park. 60,749,000

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $4,904,000: *Provided,* That contracts awarded for environmental systems, housekeeping, protection systems, and repair or renovation of buildings of the John F. Kennedy Center for the Performing Arts may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price. 4,904,000

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000. 250,000

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 370 passenger motor vehicles, of which 320 shall be for replacement only, including not to exceed 300

for police-type use and 25 buses; to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: *Provided,* That no funds available to the National Park Service may be used, unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: *Provided further,* That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further,* That none of the funds appropriated to the National Park Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner: *Provided further,* That the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: *Provided further,* That notwithstanding any other provision of law, the National Park Service may recover unbudgeted costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time: *Provided further,* That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project.

None of the funds in this Act or any other Act may be used to commence, conduct, or participate in any action in any court of law for condemnation of the property or to initiate a declaration of taking for any property in the Santa Monica Mountains NRA, California against the owner of any inholding having a detached single-family dwelling the construction of which had been begun before January 1, 1978, or against the owner or his assignees of any inholding of a detached single-family dwelling the construction of which had been begun before January 1, 1978, which dwelling may have been destroyed by fire, storm or otherwise.

No funds shall be available for the National Park Service to issue any construction permit for the Potomac Greens interchange on the George Washington Memorial Parkway unless an Environmental Impact Statement is conducted. The Environmental Impact Statement shall be commenced promptly and completed and filed within eighteen months of the date on which this bill is enacted. After completion and filing, the EIS shall be transmitted to the appropriate Congressional Committees for a period of 60 days, during which time the National Park Service shall not issue any construction permit for the Potomac Greens interchange on the George Washington Memorial Parkway.

The Environmental Impact Statement shall review the traffic impact of only the proposed 38-acre development opposite Daingerfield Island west of the George Washington Memorial Parkway: *Provided further,* That the National Park Service shall review the impact of the planned development on the visual, recreational and historical integrity of the Parkway.

The Environmental Impact Statement shall also provide an evaluation of alternative acquisition strategies to include but not be limited to appraisal estimates for the access rights, the entire 38-acre parcel, that portion of the 38-acre parcel as defined approximately by the historic district boundary line, and any other recommendations by the National Park Service to mitigate the Parkway degradation effects of the proposed development so as to adequately protect and preserve the Parkway. Such appraisals shall be prepared and filed as soon as is reasonably possible. The National Park Service solely shall determine the legal and factual sufficiency of the Environmental Impact Statement and its compliance with the National Environmental Policy Act of 1969.

The Environmental Impact Statement shall be separate from, independent of, and in no way intended to affect or modify any pending litigation. Notwithstanding any other provision of law, no court shall have jurisdiction to consider questions respecting the factual and legal sufficiency of the Environmental Impact Statement under the National Environmental Policy Act of 1969.

[*Total, National Park Service (net), $864,004,000.*]

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $447,747,000: *Provided,* That $60,664,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided further,* That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality. $447,747,000

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 25 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate

compacts: *Provided,* That appropriations herein and hereafter made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Geological Survey, and that within appropriations herein and hereafter provided, Geological Survey officials may authorize either direct procurement of or reimbursement for expenses incidental to the effective use of volunteers such as, but not limited to, training, transportation, lodging, subsistence, equipment, and supplies: *Provided further,* That provision for such expenses or services is in accord with volunteer or cooperative agreements made with such individuals, private organizations, educational institutions, or State or local government: *Provided further,* That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95–224.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $168,717,000, of which not less than $50,179,000 shall be available for royalty management activities including general administration: *Provided,* That notwithstanding any other provision of law, funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further,* That of the above enacted amounts, $250,000 proposed for data gathering to help determine the boundary between State and Federal lands offshore of Alaska shall be available only if an equal amount is provided by the State of Alaska from State revenues to match the Federal support for this project: *Provided further,* That none of the funds in this Act may be used to implement a rule which modifies NTL–5 until such time as H.R. 3479, or similar legislation, is enacted into law: *Provided further,* That audits may proceed but the Minerals Management Service shall take no action to collect unpaid or underpaid royalties on natural gas production from Federal onshore or Indian leases between January 1, 1982, and July 31, 1986, plus applicable interest, based on a value of production in excess of the lessee's gross proceeds (or minimum value required by the applicable lease terms and regulations in titles 25 and 30 of the CFR) until such time as legislation affecting NTL–5 for that period is enacted. $168,717,000

Subsection (g)(5)(A) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(5)(A)) is amended—

(1) by striking out "such account" in the second sentence and inserting in lieu thereof "an escrow account established pursuant to an agreement under section 7";

(2) by designating the indented clause as clause (ii);

(3) in the first sentence of the clause (ii) by striking "any" and inserting in lieu thereof "a", by striking out "all" and by inserting in lieu thereof "any additional", and by inserting "or credited to" before "the escrow account"; and

(4) by inserting before clause (ii) the following new clause:

"(i) Twenty-seven percent of all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and

windfall profits taxes, and derived from any lease issued after September 18, 1978, of any tract which lies wholly within three nautical miles of the seaward boundary asserted by the Federal Government in the boundary dispute, together with all accrued interest thereon, shall be paid to the State either—

"(I) within thirty days of December 1, 1987, or

"(II) by the last business day of the month following the month in which those revenues are deposited in the Treasury, whichever date is later.".

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $146,398,000, of which $88,259,000 shall remain available until expended: *Provided,* That not more than $1,890,000 of the amount appropriated may be used for executive direction: *Provided further,* That none of the funds in this or any other Act may be used for the closure or consolidation of any research centers or the sale of any of the helium facilities currently in operation: *Provided further,* That of the sums provided under this head, $1,200,000 shall be available to the Mississippi Mineral Resources Institute of the University of Mississippi and the Center of Ocean Resources Technology of the University of Hawaii for a Marine Minerals Technology Center, equally divided: *Provided further,* That notwithstanding any other provision of law, the Bureau of Mines is authorized, in consultation with the General Services Administration, to immediately enter into a two year lease purchase agreement for the Bureau of Mines research center located in Spokane, Washington. $146,398,000

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided,* That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed $400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; $102,125,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of 102,125,000

the Treasury from performance bond forfeitures in fiscal year 1988: *Provided,* That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States in fiscal year 1988, moneys collected pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977: *Provided further,* That the Secretary of the Interior shall abide by and adhere to the terms of the Settlement Agreement in NWR v. Miller, C.A. No. 86-99 (E.D. Ky), and not take any actions inconsistent with the provisions of footnote 3 of the Agreement with respect to any State or Federal program.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, $199,380,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: *Provided,* That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further,* That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: *Provided further,* That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: *Provided further,* That the Secretary of the Interior may deny 50 percent of an Abandoned Mine Reclamation fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: *Provided further,* That expenditure of moneys as authorized in section 402(g)(3) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87: *Provided further,* That 23 full time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office. $199,380,000

[*Total, Office of Surface Mining Reclamation and Enforcement, $301,505,000.*]

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $970,756,000, of which not less than $47,787,000 shall remain available until expended for contract support for contracts entered into under Public Law 93-638; and of which not to exceed $51,121,000 for higher education scholarships and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), and $25,000,000 for firefighting shall remain available for obligation until September 30, 1989, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1989: *Provided,* That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs unless the tribe(s) and the Bureau of Indian Affairs enter into a cooperative agreement for consolidated services; and for expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), $1,971,000, to remain available until expended: *Provided further,* That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further,* That the amounts available for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall be distributed on the same basis as such funds were distributed in fiscal year 1986: *Provided further,* That notwithstanding any provision of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act, the amounts appropriated for fiscal year 1988 for the Bureau of Indian Affairs for the Institute of American Indian Arts shall be available to operate the Institute until the Board of Regents and President of the Institute have been named and had an opportunity to organize, and for use under part A of that Act: *Provided further,* That the savings realized by the Bureau of Indian Affairs from the transfer of fish hatcheries to the United States Fish and Wildlife Service shall be available for cyclical maintenance of tribally-owned fish hatcheries and related facilities: *Provided further,* That no part of any appropriations to the Bureau of Indian Affairs shall be available to provide general assistance payments for Alaska Natives in the State of Alaska unless and until otherwise specifically provided for by Congress: *Provided further,* That none of the funds contained in this Act shall be available for any payment to any school to which such school would otherwise be entitled pursuant to section 1128(b) of Public Law 95-561, as amended, until after July 1, 1988: *Provided further,* That the Secretary shall take no action to close the school or dispose of the property of the Phoenix Indian School until the Congress has specifically approved the

$970,756,000

school closure or provided for disposition of the property in legislation: *Provided further,* That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for such tribe or individual have been audited and reconciled, and the tribe or individual has been provided with an accounting of such funds, and the appropriate Committees of the Congress and the tribes have been consulted with as to the terms of the proposed contract or agreement: *Provided further,* That none of the funds in this Act shall be used to implement any regulations, or amendments to or revisions of regulations, relating to the Bureau of Indian Affairs' higher education grant program that were not in effect on March 1, 1987: *Provided further,* That none of the funds in this Act shall be used to implement proposed initiatives to transfer any school operated by the Bureau to the control of any tribe, State, or local government agency (except that this prohibition shall not apply with respect to the transfer of a Bureau-operated school to the control of an Indian tribe under a contract entered into under the Indian Self-Determination and Education Assistance Act if the governing body of the Indian tribe approves of the transfer); to charge tuition at Bureau post-secondary schools; to implement the proposed economic self-assistance initiative (except for a limited demonstration program); to change the method of funding tribal contractor indirect costs, including imposition of a flat rate for contract support costs; to make available to the Bureau administrative deductions collected from Indian timber sales; to contract out the administration of the Bureau forestry program or any other Bureau-operated programs without prior approval of the Committees on Appropriations; or to implement any reorganizations, including "regionalization" of programs, without the prior approval of the Committees on Appropriations: *Provided further,* That Public Law 99-349 is amended by deleting under the heading "Bureau of Indian Affairs, Operation of Indian Programs" the second, third, and fourth provisos and substituting: "*Provided further,* That the funds appropriated hereunder shall be used pursuant to the consent decree and subsequent court orders in United States v. Michigan (M-26-73).": *Provided further,* That $120,000 of the amounts provided for education program management shall be available for a grant to the Close Up Foundation.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; and construction, repair, and improvement of Indian housing, $83,225,000, to remain available until expended: *Provided,* That of this amount, up to $6,400,000 shall be made available for planning, design and construction of the Choctaw Central School in Mississippi: *Provided further,* That the portion of the $6,400,000 related to construction shall not be released until (1) an application for the new school has been submitted to the Bureau of Indian Affairs and the Office of Construction Management; (2) the application has been reviewed and ranked on the school construction priority system; and (3) the planning and design for the new school has been completed: *Provided further,* That $1,482,000 of the funds appropriated for use by the Secretary to construct homes and related facilities for the Navajo and Hopi Indian Relocation Commission in lieu of construction by the Commission under section 15(d)(3) of the Act of December 22, 1974 (88 Stat. 1719; 25 U.S.C. 640d-14(d)(3)), may be used for counseling, archeological clearances, water production and administration related to the relocation of Navajo families: *Provided fur-*

$83,225,000

ther, That $1,500,000 of the funds made available in this Act shall be available for rehabilitation of tribally-owned fish hatcheries and related facilities: *Provided further,* That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further,* That none of the funds available in this Act may be used to implement any regulations, or amendments to or revisions of regulations, relating to the Bureau of Indian Affairs' housing improvement program that were not in effect on October 1, 1986.

ROAD CONSTRUCTION

For construction of roads and bridges pursuant to authority contained in 23 U.S.C. 203, the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), and the Act of May 26, 1928 (45 Stat. 750; 25 U.S.C. 318a), $1,000,000 for the Honobia Indian Road in Oklahoma, to remain available until expended: *Provided,* That not to exceed 5 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover roads program management costs and construction supervision costs of the Bureau of Indian Affairs. $1,000,000

MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals pursuant to Public Laws 98–500, 99–264, and 99–503, including funds for necessary administrative expenses, $13,340,000, to remain available until expended: *Provided,* That not to exceed $10,700,000 is made available to the Tohono O'Odham Nation for purposes authorized in the Gila Bend Indian Reservation Lands Replacement Act, Public Law 99–503. 13,340,000

MISCELLANEOUS TRUST FUNDS

TRIBAL TRUST FUNDS

In addition to the tribal funds authorized to be expended by existing law, there is appropriated in fiscal year 1988 and thereafter to the Secretary of the Interior for the benefit of the tribes on whose behalf such funds were collected, not to exceed $1,000,000 in each fiscal year from tribal funds not otherwise available for expenditure. 1,000,000 *(definite)*

REVOLVING FUND FOR LOANS

During fiscal year 1988, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974, as amended (88 Stat 77; 25 U.S.C. 1451 et seq.), shall not exceed resources and authority available.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), $3,085,000, to remain available until expended: *Provided,* That during fiscal year 1988, total commitments to guarantee loans pursuant to the Indian Financing Act of 1974, as amended, may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available. 3,085,000

[*Total, miscellaneous trust funds, $4,085,000.*]

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits, and purchase of not to exceed 150 passenger carrying motor vehicles, of which 100 shall be for replacement only.

[*Total, Bureau of Indian Affairs, $1,072,406,000.*]

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $78,235,000 of which (1) $75,287,000 shall be available until expended for technical assistance; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for support of governmental functions; construction grants to the Government of the Virgin Islands as authorized by Public Law 97-357 (96 Stat. 1709); construction grants to the Government of Guam, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) $2,948,000 for salaries and expenses of the Office of Territorial and International Affairs: *Provided,* That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further,* That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further,* That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99-396, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99-396: *Provided further,* That funds previously appropriated under this head for a loan to the Government of the United States Virgin Islands, for construction of an extension to the Alexander Hamilton Airport runway, St. Croix, shall be available for issuance of the loan without approval of a multiyear grant of Airport Improvement Program funds from the Federal Aviation Administration: *Provided further,* That $540,000 of the amounts provided for technical assistance shall be available for a grant to the Close Up Foundation: *Provided further,* That of the total appropriation $500,000 shall be available for the establishment of a disaster contingency fund. $78,235,000

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July

18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495); grants for the expenses of the High Commissioner of the Trust Territory of the Pacific Islands; grants for the compensation and expenses of the Judiciary of the Trust Territory of the Pacific Islands; grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; $41,940,000, of which $33,940,000 is for operations including $12,350,000 for payment of claims pursuant to the Micronesian Claims Act of 1971: *Provided,* That section 105 of Public Law 95–134 (91 Stat. 1159) is amended by inserting after the word "Islands" the words "(TTPI), or TTPI constituent or successor governments,"; and of which $8,000,000 is for construction, to remain available until expended: *Provided further,* That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: *Provided further,* That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration. $41,940,000

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $33,620,000, including $2,500,000 for the Enjebi Community Trust Fund, to remain available until expended, as authorized by Public Law 99–239: *Provided,* That notwithstanding the provisions of Public Laws 99–500 and 99–591, the effective date of the Palau Compact for purposes of economic assistance pursuant to the Palau Compact of Free Association, Public Law 99–658, shall be the effective date of the Palau Compact as determined pursuant to section 101(d) of Public Law 99–658: *Provided further,* That funds previously appropriated under this head shall be available for audit purposes as identified in section 233 of the Compact of Free Association. 33,620,000

[*Total, Territorial and International Affairs, $153,795,000.*]

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of the Interior, $47,519,000 of which not to exceed $10,000 may be for official reception and representation expenses. 47,519,000

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $23,053,000. 23,053,000

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $17,757,000. 17,757,000

CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, $1,800,000. 1,800,000

[*Total, Departmental Offices, $90,129,000.*]

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 8 aircraft, all of which shall be for replacement: *Provided,* That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further,* That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods or volcanoes; for emergency reclamation projects under section 410 of Public Law 95–87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided,* That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further,* That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided,* That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $300,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in

societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members: *Provided,* That no funds available to the Department of the Interior are available for any expenses of the Great Hall of Commerce.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902 and D.C. Code 4–204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the preparation for, or conduct of, pre-leasing and leasing activities (including but not limited to: calls for information, tract selection, notices of sale, receipt of bids and award of leases) of lands described in, and under the same terms and conditions set forth in section 107 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99–190.

SEC. 108. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.

SEC. 109. Notwithstanding any other provision of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

SEC. 110. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

SEC. 111. The Secretary of the Navy is authorized to transfer to the Guam Power Authority (GPA), pursuant to the payment provisions described in the conference report on the Continuing Appropriations Act, 1985 (House Report No. 98–1159), those Navy-owned electric power generation, transmission and distribution facilities, and equipment (excluding distribution facilities required by the military) on Guam as specified in the customer-supplier contract to be negotiated between the Navy and the GPA together with associated land interests. Transfer of such power generation, transmission and distribution facilities, and equipment shall not occur until the GPA assumes full responsibility for islandwide electrical power supply to military and civilian customers on Guam. GPA shall assume full responsibility when it meets all performance standards specified in the August, 1986 independent third party plan for takeover of the islandwide power responsibilities or other performance standards mutually agreed upon by GPA and Navy.

[*Total, title I, Department of the Interior:*

[*New budget (obligational) authority (net)* .	*$4,361,330,000.*]
[*Appropriations, definite*	*4,412,429,000.*]
[*Appropriations, indefinite*	*—19,199,000.*]
[*Rescissions*	*—31,900,000.*]
[*Liquidation of contract authority*	*31,000,000.*]

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $135,510,000 of which $3,000,000 shall remain available until expended for competitive research grants, as authorized by section 5 of Public Law 95-307. $135,510,000

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, $76,469,000, to remain available until expended, as authorized by law: *Provided,* That a grant of $2,800,000 shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95-495: *Provided further,* That notwithstanding any other provision of law, a grant of $6,400,000 shall be provided to the appropriate entity in the city of Kellogg, Idaho for construction of a gondola and shall be matched from other sources. 76,469,000

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for liquidation of obligations made in the preceding fiscal years pursuant to 16 U.S.C. 556d for forest firefighting and emergency rehabilitation of National Forest System lands, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", $1,243,391,000, of which $296,758,000 for reforestation and timber stand improvement, cooperative law enforcement, firefighting, and maintenance of forest development roads and trails shall remain available for obligation until September 30, 1989. 1,243,391,000

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, $214,078,000, to remain available until expended, of which $27,643,000 is for construction and acquisition of buildings and other facilities; and $186,435,000 is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: *Provided,* That funds becoming available in fiscal year 1988 under the Act of March 4 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States. 214,078,000

—75,023,000 (timber receipt transfer to general fund, indefinite)

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $49,076,000 to be derived from the Land and Water Conservation Fund, to remain available 49,076,000

until expended: *Provided,* That, notwithstanding any other provision of law, the Secretary of Agriculture, as soon as practicable, shall—

(1) acquire the following described lands (containing approximately 2,000 acres) from the owner of such real property:

All that portion of sections 17, 18, 19, and 20 in township 25 north range 11 west Mt. Diablo Meridian Trinity County, California, described as follows:

The west half of the southwest quarter; the west half of the east half of the southwest quarter of section 17.

Lots 9, 10, 11, and 12 and the southeast quarter of section 18.

Lots 5, 6, 7, 8, 17, and 18 and the northeast quarter of section 19.

The west half of the northwest quarter; the west half of the northeast quarter of the northwest quarter; the southeast quarter of the northeast quarter of the northwest quarter; the southeast quarter of the northwest quarter; the southwest quarter of the northeast quarter and the south half of the northwest quarter of the northeast quarter of section 20.

All that portion of sections 13, 14, and 24 in township 25 north range 12 west Mount Diablo Meridian Trinity County, California, described as follows:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12; the west half of the northeast quarter; the east half of the west half; the northwest quarter of the northwest quarter; and the southwest quarter of the southwest quarter of section 13.

Lots 3, 4, 5, and 6; the west half of the northwest quarter of the northeast quarter; and the east half of the northeast quarter of the northeast quarter; the southeast quarter of the southeast quarter; and the southwest quarter of the northeast quarter; and the northeast quarter of the northwest quarter of section 14.

Lots 1, 2, 7, and 8 of section 24.

Tracts 44, 55, and 76;

(2) in consideration of such acquisition, reduce the aggregate outstanding loan balance, with respect to loans made to such owner by the Farmers Home Administration, by an amount equal to the fair market value (as determined by the Secretary) of such real property, plus the reasonable expenses incurred by such owner in executing such transfer of title, plus an amount equal to the reasonably expected liability of such owner for Federal, State, and local taxes incurred on account of such transfer of title, except that such reduction shall not exceed $1,250,000; and

(3) transfer such lands to the Forest Service for such sums as the Secretary determines to be appropriate, which lands shall be added to, and administered as part of, the Yolla-Bolly Middle Eel Wilderness.

The Secretary of Agriculture is directed to use funds in the inholding and composite land acquisition account to purchase the Torre Canyon Ranch, in the Los Padres National Forest, California, at a cost not to exceed fair market value.

TIMBER ROADS, PURCHASER ELECTION, FOREST SERVICE

(RESCISSION)

Of the funds currently available and unobligated in this account, $75,000,000 is hereby rescinded. —$75,000,000 *(rescission)*

TIMBER SALVAGE SALES

For design, engineering and supervision of construction of roads, for salvage timber sales, and for sale preparation and supervision of harvesting of such timber, $37,000,000, to remain available until expended: *Provided,* That the appropriation shall be merged with and made a part of the designated fund authorized by section 14(h) of Public Law 94-588, October, 1976: *Provided further,* That moneys received from the timber salvage sales program in fiscal year 1988 shall be considered as money received for the purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended. $37,000,000

ACQUISITION OF LANDS FOR NATIONAL FORESTS

SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, and Cleveland National Forests, California, as authorized by law, $966,000, to be derived from forest receipts. 966,000

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended. 990,000 *(indefinite)*

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements. 3,750,000 *(indefinite)*

MISCELLANEOUS TRUST FUNDS

For expenses authorized by 16 U.S.C. 1643(b), $90,000 to remain available until expended, to be derived from the fund established pursuant to the above Act. 90,000

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 186 passenger motor vehicles of which nine will be used primarily for law enforcement purposes and of which 179 shall be for replacement only, of which acquisition of 157 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 50 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the

Forest Service, not in excess of $400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the National Forest System appropriation for the emergency rehabilitation of burned-over lands under its jurisdiction.

Appropriations and funds available to the Forest Service shall be available to comply with the requirements of section 313(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323(a)).

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Forest Service position and that are necessary to comply with State laws, regulations, and requirements.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, technical information, and assistance in foreign countries.

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited for use by the applicable national forest and credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest: *Provided*, That not less than $61,502,000 shall be made available to the Forest Service for obligation in fiscal year 1988 from the Timber Salvage Sales Fund appropriation.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprograming procedures contained in House Report 99-714.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Subject to the enactment of authorizing legislation the boundary of the Cranberry Wilderness located within the Monongahela National Forest, West Virginia, is modified as depicted on a map entitled "Cranberry Wilderness Area Revised" dated October, 1987, on file in the Office of the Chief, Forest Service, United States Department of Agriculture, Washington, D.C.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

Notwithstanding section 705(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(a)), not more than $50,007,000 of new appropriations shall be available for timber supply, protection and management, research, resource protection and construction on the Tongass National Forest in fiscal year 1988: *Provided*, That all of the funds available from the Tongass Timber Supply Fund in fiscal year 1988 pursuant to section 705(a) of Public Law 96-487 shall be deemed obligated as of October 1, 1987 and shall remain available until expended. This funding limitation shall not include those funds available to the Forest Service as Trust Funds, Permanent Funds (other than the Tongass Timber Supply Fund), or Purchaser Road Construction.

No funds shall be expended for the purpose of issuing a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Lewis Fork Creek in Madera County, California, at the site above, and adjacent to, Corlieu Falls bordering the Lewis Fork Creek National Recreation Trail until both of the following conditions are met:

(1) A study is completed and submitted to the Congress by the Forest Service in consultation with the California Department of Parks and Recreation regarding the project's impact on the aesthetics of Corlieu Falls, together with a finding that the Lewis Fork Creek project will not substantially impact the flow at Corlieu Falls; and

(2) A study is completed and submitted to the Congress by the Forest Service concerning the project's impact on the Chukchansi Indian Tribe, together with a finding that there will be no substantial adverse impact on the tribe's adjacent sacred hot springs.

[*Total, Department of Agriculture (net), $1,686,320,000.*]

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

For necessary expenses of, and associated with, Clean Coal Technology demonstrations pursuant to 42 U.S.C. 5901 et seq., $50,000,000 are appropriated for the fiscal year beginning October 1, 1987, and shall remain available until expended, and $525,000,000 are appropriated for the fiscal year beginning October 1, 1988, and shall remain available until expended. $50,000,000 525,000,000 *(advance appropriation, fiscal year 1989)*

No later than sixty days following enactment of this Act, the Secretary of Energy shall, pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), issue a general request for proposals for emerging clean coal technologies which are capable of retrofitting or repowering existing facilities, for which the Secretary of Energy upon review may provide financial assistance awards. Proposals under this section shall be submitted to the Department of Energy no later than ninety days after issuance of the general request for proposals required herein, and the Secretary of Energy shall make any project selections no later than one hundred and sixty days after receipt of proposals: *Provided*, That projects selected are subject to all provisos contained under this head in Public Law 99-190: *Provided further*, That pre-award costs incurred by project sponsors after selection and before signing an agreement are allowable to the extent that they are related to (1) the preparation of material requested by the Department of Energy and identified as required for the negotiation; or (2) the preparation and submission of environmental data requested by the Department of Energy to complete National Environmental Policy Act requirements for the projects: *Provided further*, That pre-award costs are to be reimbursed only upon signing of the

project agreement and only in the same ratio as the cost-sharing for the total project: *Provided further,* That reports on projects selected by the Secretary of Energy pursuant to authority granted under the heading "Clean coal technology" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, which are received by the Speaker of the House of Representatives and the President of the Senate prior to the end of the first session of the 100th Congress shall be deemed to have met the criteria in the third proviso of the fourth paragraph under the heading "Administrative provisions, Department of Energy" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, upon expiration of 30 calendar days from receipt of the report by the Speaker of the House of Representatives and the President of the Senate.

[*Total, clean coal technology, $575,000,000.*]

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $326,975,000, to remain available until expended, of which $230,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909), and of the amount appropriated under this head, $4,000,000 shall be available to construct Department of Energy Fossil Energy building B-26, and pursuant to section 111(b)(1)(B) of the Energy Reorganization Act of 1974, as amended, of the amount appropriated under this head, $5,500,000 shall be available for a grant for an energy center at the University of Oklahoma in Norman, Oklahoma, and $6,000,000 shall be available for a grant for an energy center at West Virginia University in Morgantown, West Virginia, without section 111(b)(2) of such Act being applicable, and $20,894,000 to be derived by transfer from amounts derived from fees for guarantees of obligations collected pursuant to section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5919), and deposited in the "Energy security reserve" established by Public Law 96-126: *Provided,* That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: *Provided further,* That notwithstanding any other provision of law, funds appropriated under this head in Public Law 99-190 for demonstration of the Kilngas coal gasification process, which remain unobligated, shall be available for carrying out any fossil energy research and development activities.

$326,975,000

20,894,000
(by transfer)

Of the funds herein provided, $35,000,000 is for implementation of the June, 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: *Provided further,* That 25 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1988, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: *Provided further,* That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further,* That cost-sharing shall not be required for the costs of constructing or operating Government-owned facilities or for the costs

of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: *Provided further,* That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $159,663,000, to remain available until expended: *Provided,* That sums in excess of $836,000,000 received during fiscal year 1988 as a result of the sale of products produced from Naval Petroleum Reserves Numbered 1 and 3 shall be deposited in the "SPR petroleum account", to remain available until expended, for the acquisition and transportation of petroleum and for other necessary expenses: *Provided further,* That section 7430(b) of title 10, United States Code, is amended by adding after paragraph (2) the following: $159,663,000

"(3) For purposes of paragraph (2), the term 'petroleum' does not include natural gas liquids,"

and section 7422(c)(1)(B)(ii) of such title is amended by inserting "(other than natural gas liquids)" after "petroleum".

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $366,297,000, to remain available until expended, of which $56,780,000, notwithstanding any other provision of law, shall be derived first from the excess amount for fiscal year 1988 determined under the provisions of section 3003(d) of Public Law 99-509 (15 U.S.C. 4502), and second, if necessary, from unexpended balances in the Department of Energy Deposit Fund Escrow account: *Provided,* That $200,000,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99-509 (15 U.S.C. 4507): *Provided further,* That notwithstanding section 3003(d)(2) of Public Law 99-509 such sums shall be allocated to the eligible programs in the same amounts for each program as in fiscal year 1987, and of which $6,000,000 shall be available for a grant for an energy demonstration and research facility at Northwestern University as authorized by section 202 of Public Law 99-412 (42 U.S.C. 8281 note): *Provided further,* That $4,000,000 of the amount provided under this heading shall be available for continuing a research and development initiative with the National Laboratories, industry, universities, or others for new technologies up to proof-of-concept testing to increase significantly the energy efficiency of processes that produce steel: *Provided further,* That obligation of funds for these activities shall be contingent on an agreement to provide cash or in-kind contributions to the initiative or to other collaborative research and development activities related to the purpose of the initiative equal to 30 percent of the amount of Federal Government obligations: *Provided further,* That existing facilities, equipment, and supplies, or previously expended research or development funds are not acceptable as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further,* That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds. 309,517,000

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $21,565,000. $21,565,000

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $6,172,000. 6,172,000

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), $164,162,000, to remain available until expended. 164,162,000

SPR PETROLEUM ACCOUNT

For the acquisition and transportation of petroleum and for other necessary expenses under section 167 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), $438,744,000, to remain available until expended: *Provided,* That outlays in fiscal year 1988 resulting from the use of these funds may not exceed $256,478,000: *Provided further,* That notwithstanding 42 U.S.C. 6240(d) the United States' share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve. 438,744,000

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $61,398,000. 61,398,000

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles, hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided,* That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further,* That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further,* That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30

calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

[*Total, Department of Energy:*
[*New budget (obligational) authority* ..... *$2,063,196,000.*]
[*Appropriations, fiscal year 1988* ..... *1,538,196,000.*]
[*Advance appropriation, fiscal year 1989.* *525,000,000.*]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXI and sections 208 and 338G of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; $943,297,000 together with payments received during the fiscal year pursuant to 42 U.S.C. 300cc–2 for services furnished by the Indian Health Service: *Provided,* That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act): *Provided further,* That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until September 30, 1989; and $15,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund and contract medical care: *Provided further,* That of the funds provided, $2,000,000 shall be used to carry out a loan repayment program under which Federal, State, and commercial-type educational loans for physicians and other health professionals will be repaid at a rate not to exceed $25,000 per year of obligated service in return for full-time clinical service in the Indian Health Service. Each individual participating in this program must sign and submit to the Secretary a written contract to accept repayment of educational loans and to serve for the applicable period of service in the Indian Health Service: *Provided further,* That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further,* That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available until September 30, 1989 for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): *Provided further,* That of the funds provided, $2,500,000 shall remain

$943,297,000

available until expended, for the establishment of an Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further,* That funding contained herein, and in any earlier appropriations Acts for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1989.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, $62,511,000, to remain available until expended. $62,511,000

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS–18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided,* That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: *Provided further,* That non-Indian patients may be extended health care at all Indian Health Service facilities, if such care can be extended without impairing the ability of the Indian Health Service to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which, together with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–53), shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act: *Provided further,* That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further,* That with the exception of service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further,* That the Secretary of Health and Human Services may authorize special retention pay under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer for the period during which the officer is obligated under section 338B of the Public Health Service Act and assigned and providing direct health services or serving the officer's obliga-

tion as a specialist: *Provided further,* That personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full-time equivalent level of the Indian Health Service by the elimination of temporary employees by reduction in force, hiring freeze or any other means without the review and approval of the Committees on Appropriations: *Provided further,* That funds provided in this Act may be used to reimburse the travel costs of spouses who accompany prospective Indian Health Service medical professional employees to the site of employment as part of the recruitment process: *Provided further,* That section 103(c) of the Indian Self-Determination Act (88 Stat. 2206) is amended by adding the following sentence at the end thereof: "For purposes of section 224 of the Public Health Service Act of July 1, 1944 (42 U.S.C. 233(a)), as amended by section 4 of the Act of December 31, 1970 (84 Stat. 1870), with respect to claims for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, a tribal organization or Indian contractor carrying out a contract, grant agreement, or cooperative agreement under sections 103 or 104(b) of this Act is deemed to be part of the Public Health Service in the Department of Health and Human Services while carrying out any such contract or agreement and its employees (including those acting on behalf of the organization or contractor as provided in section 2671 of title 28) are deemed employees of the Service while acting within the scope of their employment in carrying out the contract or agreement.".

The paragraph under the heading "Administrative Provisions, Indian Health Service" that is under the superior headings "Health Resources and Services Administration" and "Department of Health and Human Services" in title II of the Department of the Interior and Related Agencies Appropriations Act, 1987, which is contained in section 101(h) of Public Law 99-500 (100 Stat. 1783-277) and in section 101(h) of Public Law 99-591 (100 Stat. 3341-277) is amended by striking out all after "any political subdivision of the State," in the seventh proviso and inserting in lieu thereof "any corporation (including the University of Alaska), any partnership, any business organization, any non-profit organization, or any person, and may receive or pay money to the extent that such receipt or payment is necessary to equalize the exchange: *Provided,* That available funds previously appropriated for this project may be used for this purpose and that any money received by the Secretary shall be credited to the appropriation for Indian Health Facilities and be used to offset the costs of constructing or lease-purchase of the hospital facilities in Alaska described in this section: *Provided further,* That the Indian Health Service prepares and submits a report prior to June, 1988, which sets forth the legal authority necessary to enter into a lease-purchase contract, identifies the extent of tribal interest in the construction of health facilities for lease-purchase to the Indian Health Service, compares the advantages versus the disdvantages to the Government of lease-purchase to direct Federal construction of the Anchorage facility, including costs of construction, and discusses the efforts expended by the Indian Health Service in protecting the Federal investment to date".

[*Total, Department of Health and Human Services, $1,005,808,000.*]

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act, $66,326,000, of which $49,170,000 shall be for part A and $14,707,000 shall be for parts B and C: *Provided,* That the amounts available pursuant to section 423 of the Act shall remain available for obligation until September 30, 1989. $66,326,000

OTHER RELATED AGENCIES

Navajo and Hopi Indian Relocation Commission

SALARIES AND EXPENSES

For necessary expenses of the Navajo and Hopi Indian Relocation Commission as authorized by Public Law 93-531, $25,270,000, to remain available until expended, for operating expenses of the Commission: *Provided,* That none of the funds contained in this or any other Act may be used to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further,* That no relocatee will be provided with more than one new or replacement home: *Provided further,* That the Commission shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10. 25,270,000

Smithsonian Institution

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed ten years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $201,432,000, including such funds as may be necessary to support American overseas research centers: *Provided,* That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations. 201,432,000

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $8,150,000, to remain available until expended. 8,150,000

RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $19,254,000, to remain available until expended: *Provided,* That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price. $19,254,000

CONSTRUCTION

For necessary expenses to design and construct a base camp at the Fred L. Whipple Observatory, $1,315,000, to remain available until expended: *Provided,* That notwithstanding any other provision of law, the Institution is authorized to transfer to the State of Arizona, the counties of Santa Cruz and/or Pima, a sum not to exceed $150,000 for the purpose of assisting in the construction or maintenance of an access to the Whipple Observatory. 1,315,000

[*Subtotal, Smithsonian Institution, $230,151,000.*]

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; purchase of one passenger motor vehicle for replacement only; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $37,352,000, of which not to exceed $2,420,000 for the special exhibition program shall remain available until expended. 37,352,000

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356), including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $4,028,000. 4,028,000

[*Total, Smithsonian Institution, $271,531,000.*]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $139,311.000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act: *Provided,* That, 20 U.S.C. 974(b) is amended as follows: strike "$650,000,000" and insert "$1,200,000,000": *Provided further,* That, 20 U.S.C. 974(c) is amended as follows: strike "$75,000,000" and insert "$125,000,000". $139,311,000

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,420,000, to remain available until September 30, 1989, to the National Endowment for the Arts, of which $19,420,000 shall be available for purposes of section 5(l): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated. 28,420,000

[*Total, National Endowment for the Arts, $167,731,000.*]

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $111,935,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act. 111,935,000

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,500,000, to remain available until September 30, 1989, of which $16,500,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated. 28,500,000

[*Total, National Endowment for the Humanities, $140,435,000.*]

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, $4,500,000: *Provided,* That Public Law 99-190 (99 Stat. 1261) is amended under this heading as follows: 4,500,000

(1) in the first paragraph, strike the words "National Endow-

ment for the Humanities" and insert in lieu thereof "Commission of Fine Arts", and

(2) Delete the third paragraph and insert in lieu thereof: "The Chairman of the Commission of Fine Arts shall establish an application process and shall, along with the Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities determine the eligibility of applicant organizations in addition to those herein named.".

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $21,944,000, including $100,000 as authorized by 20 U.S.C. 965(b): *Provided,* That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further,* That the Museum Services Board shall not meet more than three times during fiscal year 1988. $21,944,000

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913. *Provided,* That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

[*Total, National Foundation on the Arts and Humanities, $334,610,000.*]

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $443,000. 443,000

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $1,719,000: *Provided,* That none of these funds shall be available for the compensation of Executive Level V or higher positions. 1,719,000

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $2,948,000. 2,948,000

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $28,000 to remain available until September 30, 1989. 28,000

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,516,000, for operating and administrative expenses of the Corporation. $2,516,000

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $3,000,000, to remain available until expended 3,000,000

[*Total, Pennsylvania Avenue Development Corporation, $5,516,000.*]

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, $2,171,000: *Provided,* That hereafter persons other than members of the United States Holocaust Memorial Council may be designated as members of committees associated with the United States Holocaust Memorial Council subject to appointment by the Chairman of the Council: *Provided further,* That any persons so designated shall serve without cost to the Federal Government: *Provided further,* That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further,* That hereafter the Chairman of the Council may waive any Council bylaw when the Chairman determines such waiver will be in the best interest of the Council: *Provided further,* That hereafter immediately after taking such action the Chairman shall send written notice to every voting member of the Council and such waiver shall become final if 30 days after the Chairman has sent such notice, a majority of Council members do not disagree in writing with the action taken: *Provided further,* That $35,000 of the amount appropriated is to go to the Holocaust Council's Committee to Remember the Children for a demonstration project to be undertaken with the Capital Children's Museum to determine the feasibility of establishing a children's museum in the principal Holocaust Memorial Museum. 2,171,000

[*Total, title II, Related Agencies:*

[*New budget (obligational) authority (net)*	*$5,465,886,000.*]
[*Appropriations, fiscal year 1988 (net)*	*4,940,886,000.*]
[*Appropriations, definite*	*5,011,146,000.*]
[*Appropriations, indefinite*	*4,740,000.*]
[*Rescission*	*—75,000,000.*]
[*Advance appropriation, fiscal year 1989.*	*525,000,000.*]
[*Timber receipt transfer to general fund, indefinite*	*—75,023,000.*]
[*By transfer*	*20,894,000.*]

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided,* That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided,* That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 307. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312, and except for land in the State of Alaska, and lands in the National Forest System released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, and except to carry out the obligations and responsibilities of the Secretary of the Interior under section 17(k)(1) (A) and (B) of the Mineral Leasing Act of 1920 (30 U.S.C. 226), none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas or within Bureau of Land Management wilderness study areas: *Provided,* That nothing in this section shall prohibit the expenditure of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning, within any lands designated by Congress as wilderness study areas, or Bureau of Land Management wilderness study areas, under valid existing rights, or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence

prior to October 1, 1982: *Provided further,* That funds provided in this Act may be used by the Secretary of Agriculture in any area of National Forest lands or the Secretary of the Interior to issue under their existing authority in any area of National Forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: *Provided further,* That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: *Provided further,* That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting in conjunction with the Secretary of Energy, the National Laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as the Secretary deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and x-ray diffraction analysis; land satellites; or any other methods the Secretary deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by the Secretary to be qualified to engage in such activities whenever the Secretary has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results: *Provided further,* That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources: *Provided further,* That funds provided in this Act may be used by the Secretary of the Interior to issue oil and gas leases for the subsurface of any lands designated by Congress as wilderness study areas, that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness study area or other nonsurface disturbing methods.

SEC. 308. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 309. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 310. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

SEC. 311. Notwithstanding any other provisions of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

SEC. 312. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 313. None of the funds made available to the Department of the Interior or the Forest Service during fiscal year 1988 by this or any other Act may be used to implement the proposed jurisdictional interchange program until enactment of legislation which authorizes the jurisdictional interchange.

SEC. 314. The Forest Service and Bureau of Land Management are to continue to complete as expeditiously as possible development of their respective Forest Land and Resource Management Plans to meet all applicable statutory requirements. Notwithstanding the date in section 6(c) of the NFMA (16 U.S.C. 1600), the Forest Service, and the Bureau of Land Management under separate authority, may continue the management of lands within their jurisdiction under existing land and resource management plans pending the completion of new plans. Nothing shall limit judicial review of particular activities on these lands: *Provided, however,* That there shall be no challenges to any existing plan on the sole basis that the plan in its entirety is outdated, or in the case of the Bureau of Land Management, solely on the basis that the plan does not incorporate information available subsequent to the completion of the existing plan: *Provided further,* That any and all particular activities to be carried out under existing plans may nevertheless be challenged.

SEC. 315. The final rule published in the Federal Register on September 16, 1987, by the Health Resources and Services Administration of the Public Health Service of the ~~Department of~~ Health and Human Services, relating to eligibility for the health care services of the Indian Health Service, shall not take effect before September 16, 1988, and no action may be taken before such day to implement or administer such rule or to prescribe any other rule or regulation that has a similar effect. The grace period provided in section 36.33 of such published rule shall not terminate before March 16, 1989, and any other rule or regulation that has a similar effect shall provide for such a grace period which shall not expire before March 16, 1989.

SEC. 316. (a) Except as provided in subsection (b), the Secretary of Agriculture shall not transfer certain National Forest System land in the Black Hills National Forest, South Dakota, described as follows:

TRACT 0043 (Hine)—

Beginning at the north quarter corner section 16, township 1, north, range 6 east; Black Hills Meridian;

thence westerly along the north line of the northwest quarter, section 16, to the east east west ½56 corner;

thence southerly along the west line of the east half east half northeast quarter northwest quarter 393.00 feet;

thence due west to a point that is due south of the intersection of the north line of the northwest quarter, section 16, and line 20–21 of the Big Bend Placer (MS 1442);

thence north to the intersection of the north line of the northwest quarter, section 16, and line 20–21 of the Big Bend Placer;

thence northeasterly along line 20–21 to corner 20;

thence northwesterly along line 19-20 to a point due north of the intersection of north line of the northwest quarter, section 16, and line 20-21, MS 1442;

thence north to a point which is due west of a point that is 850.00 feet northerly along the west line of the southeast quarter, section 9;

thence east to the west line of the southeast quarter;

thence southerly along the west line of the southeast quarter 850.00 feet to the north quarter corner section 16, point of beginning.

(b) The Secretary may transfer such portion of the Hine Tract described in subsection (a) necessary to remove the encroachment of the Hine cabin which is located on the boundary of the Hine Tract.

SEC. 317. Notwithstanding any other provision of law, the Secretary of Energy is directed to notify the Appropriations Committees of the House and the Senate, the Energy and Natural Resources Committee of the Senate and the appropriate authorizing committees of the House of the Secretary's intent to enter into a binding contract for the sale of the Great Plains Coal Gasification Plant in Beulah, North Dakota: *Provided,* That such notification shall be received by the above-referenced committees at least thirty (30) calendar days before the agreement is effective: *Provided further,* That such notification shall include a detailed description as to the terms and conditions of the sale, including, but not limited to, the purchase price, the name of the prospective purchaser, the basis for agreeing to the sale, and a statement of commitment signed by an authorized individual of the purchaser for continued long-term operation of the facility at a rate and for a period determined appropriate and reasonable by the Secretary.

SEC. 318. Notwithstanding any other provision of law, for the purposes of section 208 of title 18, United States Code, "particular matter", as applied to employees of the Department of the Interior and the Indian Health Service, shall mean "particular matter involving specific parties".

SEC. 319. (a) From funds appropriated under this Act such sums as are necessary shall be made available to pay forest firefighters premium pay under the provisions of subchapter V of chapter 55 of title 5, United States Code (notwithstanding the limitations of section 5547 of such title), for all premium pay—

(1) that would have been paid to such forest firefighter employees, but for the provisions of section 5547 of such title, for all pay periods (and parts thereof) occurring during the period beginning on January 1, 1987, through September 30, 1987; and

(2) earned by such forest firefighter employees in the fiscal year ending on September 30, 1988.

(b) Notwithstanding the provisions of subsection (a), no forest firefighter employee may be paid premium pay to the extent that the aggregate rate of pay of such employee for the aggregate of all pay periods in any calendar year exceeds the maximum rate for GS-15 as provided under the General Schedule pursuant to subchapter III of chapter 53 of title 5, United States Code.

(c) For purposes of this section, the term "forest firefighter" means any employee of the Department of Agriculture or the Department of the Interior who is assigned to, or in support of, work on forest wildfire emergencies.

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1988".

[*Total, Department of the Interior and Related Agencies Appropriations, 1988:*

[*New budget (obligational) authority (net)*	*$9,827,216,000.*]
[*Appropriations, fiscal year 1988 (net)*	*9,302,216,000.*]
[*Appropriations, definite*	*9,423,575,000.*]
[*Appropriations, indefinite*	*−14,459,000.*]
[*Rescissions*	*−106,900,000.*]
[*Advance appropriation, fiscal year 1989.*	*525,000,000.*]
[*Liquidation of contract authority*	*31,000,000.*]
[*Timber receipt transfer to general fund, indefinite*	*−75,023,000.*]
[*By transfer*	*20,894,000.*]

(h) Such amounts as may be necessary for programs, projects or activities provided for in the Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

(Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1988)

AN ACT

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies, for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $70,872,000 together with not to exceed $44,380,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund. $70,872,000
44,380,000 (limitation on trust fund transfer)

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, $3,658,651,000 plus reimbursements, to be available for obligation for the period July 1, 1988, through June 30, 1989, of which $59,713,000 shall be for carrying out section 401, $65,572,000 shall be for carrying out section 402, $9,966,000 shall be for carrying out section 441, $1,915,000 shall be for the National Commission for Employment Policy, $3,830,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, and $7,659,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act: *Provided,* That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers. 3,658,651,000

For necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers as authorized by the Job Training Partnership Act, $89,038,000, to be available for obligation for the period July 1, 1988 through June 30, 1991. 89,038,000

For activities authorized by sections 236, 237, and 238 of the Trade Act of 1974, as amended, including necessary related administrative expenses, $47,870,000. 47,870,000

For activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act, $9,574,000, of which $1,915,000 shall be for carrying out section 738 of the Act. $9,574,000

[*Total, Training and Employment Service, $3,805,133,000.*]

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $258,383,000. 258,383,000

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $72,877,000. 72,877,000

[*Total, Community Service Employment for Older Americans, $331,260,000.*]

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments and allowances, as provided by law (part I, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended), $141,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided,* That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments. 141,000,000

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-49l-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 231-235 and 243-244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H)(ii), 212(a)(14), and 216(g)(1)(2)(3) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); and necessary administrative expenses to carry out the Targeted Jobs Tax Credit program under section 51 of the Internal Revenue Code of 1986, $22,403,000, together with not to exceed $2,418,405,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the basic allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the basic allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 1988, and of which $21,733,000 together with not to exceed $701,296,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1988, through June 30, 1989, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose and of which $175,076,000 (including not to exceed $4,404,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980) shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State

22,403,000
2,418,405,000
(limitation on trust fund transfer)

law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1988.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1989; $30,000,000. $30,000,000

[Total, Employment and Training Administration, $4,400,668,000.]

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $76,776,000, of which $12,063,000 for a pension plan data base shall remain available until September 30, 1989. 76,776,000

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1988, for such Corporation: *Provided,* That not to exceed $38,329,000 shall be available for administrative expenses of the Corporation. *38,329,000 (limitation on trust fund transfer)*

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $207,709,000, of which not to exceed $7,659,000 shall be available for obligation through September 30, 1989, for acquisition of computer equipment and software for the Federal Employees' Compensation Program's ADP system, together with $467,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act. 207,709,000 *467,000 (limitation on trust fund transfer)*

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Ci-

vilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $174,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to September 15 of the current year: *Provided,* That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1988. $174,000,000

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $649,169,000, of which $594,522,000 shall be available until September 30, 1989, for payment of all benefits as authorized by section 9501(d) (1), (2), and (7) of the Internal Revenue Code of 1954, as amended, and of which $28,217,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $25,924,000 for transfer to Departmental Management, Salaries and Expenses, and $506,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided,* That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation or other benefits for any period subsequent to June 15 of the current year: *Provided further,* That in addition, there are hereby appropriated such amounts as may be necessary to repay advances from the Treasury that are not needed to make disbursements during the current fiscal year, as authorized by section 9501(d)(4) of that Act: *Provided further,* That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act. 649,169,000

38,800,000
(indefinite)

756,000
(indefinite)

[*Total, Black Lung Disability Trust Fund, $688,725,000.*]

[*Total, Employment Standards Administration, $1,070,434,000.*]

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $235,474,000, including not to exceed $40,524,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, wiliful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace 235,474,000

subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for ten or more violations: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further,* That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of ten or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good-faith effort

to eliminate the hazard created by the condition cited as such, which was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained from such consultants: *Provided further,* That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the six months preceding such inspection: *Provided further,* That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration including a failure to respond to a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section 11(c) of such Act, or as part of a special study monitoring program, or to investigate a fatality or catastrophe: *Provided further,* That none of the funds appropriated under this paragraph may be obligated or expended for the inspection, investigation, or enforcement of any activity occurring on the Outer Continental Shelf which exceeds the authority granted to the Occupational Safety and Health Administration by any provision of the Outer Continental Shelf Lands Act, or the Outer Continental Shelf Lands Act Amendments of 1978.

Mine Safety and Health Administration

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $160,193,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed sixty passenger motor vehicles for replacement only; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine. $160,193,000

Bureau of Labor Statistics

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $176,481,000, of which $8,793,000 shall be for expenses of revising the Consumer 176,481,000

Price Index, together with not to exceed $41,569,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: *Provided*, That $7,366,000 shall remain available until September 30, 1989. *$41,569,000 (limitation on trust fund transfer)*

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including $2,434,000 for the President's Committee on Employment of the Handicapped, $114,929,000, together with not to exceed $274,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund. 114,929,000 *274,000 (limitation on trust fund transfer)*

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $139,614,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001-08 and 2021-26. *139,614,000 (limitation on trust fund transfer)*

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, $37,051,000, together with not to exceed $6,201,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund. 37,051,000 *6,201,000 (limitation on trust fund transfer)*

[*Total, Departmental Management, $151,980,000.*]

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

SEC. 103. None of the funds appropriated in this Act shall be obligated or expended for the purpose of closing any Job Corps Center operating under part B of title IV of the Job Training Partnership Act prior to January 1, 1989.

SEC. 104. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps which was not under such a contract as of September 1, 1984.

SEC. 105. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

This title may be cited as the "Department of Labor Appropriations Act, 1988".

[*Total, title I, Department of Labor:*
[*New budget (obligational) authority* ..... *$6,272,006,000.*]
[*Definite* ..... *6,232,450,000.*]
[*Indefinite* ..... *39,556,000.*]
[*Limitation on trust fund transfer* ..... *2,689,239,000.*]

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles III, VI, VII, VIII, X, XVI, and XXIII of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, and the Stewart B. McKinney Homeless Assistance Act, $1,551,478,000, of which not to exceed $718,000 to remain available until expended, shall be available for renovating the Gillis W. Long Hansen's Disease Center, 42 U.S.C. 247e, and of which $96,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act, and of which $6,702,000 shall be made available until expended to make grants under section 1610(b) of the Public Health Service Act for renovation or construction of non-acute care intermediate and long term care facilities for AIDS patients: *Provided,* That grants made under the Excellence in Minority Health Education and Care Act shall be awarded competitively and, notwithstanding section 788A, any university which awards a graduate degree in the health professions and which has a majority enrollment of minority students shall be eligible to apply and compete for a grant: *Provided further,* That the total principal amount of Federal loan insurance available under section 728 of the Public Health Service Act during fiscal year 1988 shall be granted by the Secretary of Health and Human Services without regard to any apportionment or other similar limitation: *Provided further,* That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advances to this appropriation. $1,551,478,000

957,000 (limitation on direct loans)

For carrying out subpart 2 of part A of title XIX of the Public Health Service Act, $4,787,000 to be available June 1, 1988. 4,787,000

[*Total, Health Resources and Services, $1,556,265,000.*]

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $22,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made. 22,000,000

[*Total, Health Resources and Services Administration, $1,578,265,000.*]

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, XVII, and XIX and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $771,772,000, of which $1,915,000 shall remain available until expended for equipment and construction and renovation of facilities: *Provided*, That training shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further*, That funds appropriated under this heading shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further*, That collections from user fees, including collections from training and reimbursements and advances for the full cost of proficiency testing of private clinical laboratories, may be credited to this appropriation: *Provided further*, That the General Services Administration is directed to construct under their lease purchase authority, a 100,000 net sq. ft. office building at the CDC Clifton Road site in Atlanta, Georgia and the laboratory facility in Chamblee, Georgia, designed with the funds which Congress provided to the Centers for Disease Control in the fiscal year 1987 Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriation. CDC is to reimburse GSA for the annual lease payment: *Provided further*, That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the PHS Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality shall be treated as non-Federal employees for reporting purposes only. In addition, the full-time equivalents for organizations within the Department of Health and Human Services shall not be reduced to accommodate implementation of this provision: *Provided further*, That the Director shall cause to be distributed without necessary clearance of the content by any official, organization or office, an AIDS mailer to every American household by June 30, 1988, as approved and funded by the Congress in Public Law 100-71. $771,772,000

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $1,469,327,000. 1,469,327,000

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301, title IV, and section 1105 of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $965,536,000. 965,536,000

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental diseases, $126,297,000. $126,297,000

NATIONAL INSTITUTE OF DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, $534,733,000. 534,733,000

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological and communicative disorders and stroke, $534,692,000. 534,692,000

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $638,800,000. 638,800,000

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $632,676,000. 632,676,000

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $396,811,000. 396,811,000

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $224,947,000. 224,947,000

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311, and title IV of the Public Health Service Act with respect to environmental health sciences, $215,666,000. 215,666,000

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $194,746,000. 194,746,000

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, $147,679,000. 147,679,000

RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $368,153,000, of which $23,935,000 shall remain available until expended to provide for the repair, renovation, modernization, and expansion of existing facilities and purchase of 368,153,000

associated equipment, and to make grants and enter into contracts for such purposes: *Provided*, That none of these funds, with the exception of funds for the Minority Biomedical Research Support program, shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $23,380,000. $23,380,000

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $15,651,000, of which $1,852,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory. 15,651,000

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $67,910,000. 67,910,000

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $61,819,000, including purchase of not to exceed six passenger motor vehicles for replacement only. 61,819,000

BUILDINGS AND FACILITIES

For construction of, and acquisition of sites and equipment for, facilities of or used by the National Institutes of Health, $47,870,000, to remain available until expended. 47,870,000

[*Total, National Institutes of Health, $6,666,693,000.*]

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $1,373,727,000 of which $4,787,000 shall be available, on a pro rata basis, for grants to the States for State comprehensive mental health services plans pursuant to title V of Public Law 99-660 (100 Stat. 3794-3797), and of which $191,000 for renovation of government owned or leased intramural research facilities shall remain available until expended. 1,373,727,000

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

(INCLUDING TRANSFER OF FUNDS)

To carry out the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, $62,793,000, together with any unobligated balances from "Saint Elizabeths Hospital, Construction and Renovation" (except those balances determined by the Secretary of Health and Human Services to be necessary to carry out existing Federal renovation contracts), all of which shall be available in fiscal year 1988 for payments to the District of Columbia as authorized by sections 2, 4, and 9 of the Act; and in addition, $2,609,000 which shall be available through September 30, 1989 for 62,793,000 2,609,000

Federal activities authorized by sections 6 and 9 of the Act: *Provided,* That funds appropriated under this heading may be used for multi-year contracts with the District of Columbia for maintenance of Saint Elizabeths Hospital: *Provided further,* That any amounts determined by the Secretary of Health and Human Services to be in excess of the amounts requested and estimated to be necessary to carry out sections 6 and 9(f)(2) of the Act shall be returned to the Treasury.

In fiscal year 1988 the maximum amount available to Saint Elizabeths Hospital from Federal sources shall not exceed the total of the following amounts: the appropriations made under this heading, amounts billed to Federal agencies and entities by the District of Columbia for services provided at Saint Elizabeths Hospital, and amounts authorized by titles XVIII and XIX of the Social Security Act. This maximum amount shall not include Federal funds appropriated to the District of Columbia under "Federal Payment to the District of Columbia" and payments made pursuant to section 9(c) of Public Law 98-621. Amounts chargeable to and available from Federal sources for inpatient and outpatient services provided through Saint Elizabeths Hospital as authorized by 24 U.S.C. 191, 196, 211, 212, 222, 253, and 324; 31 U.S.C. 1535; and 42 U.S.C. 249 and 251 shall not exceed the estimated total cost of such services as computed using only the proportionate amount of the direct Federal subsidy appropriated under this heading.

[*Total, Federal Subsidy for Saint Elizabeths Hospital, $65,402,000.*]

[*Total, Alcohol, Drug Abuse and Mental Health Administration, $1,439,129,000.*]

OFFICE OF ASSISTANT SECRETARY FOR HEALTH

PUBLIC HEALTH SERVICE MANAGEMENT

For the expenses necessary for the Office of the Assistant Secretary for Health and for carrying out titles III, XVII, and XX of the Public Health Service Act, $106,737,000, together with not to exceed $1,005,000 to be transferred and expended as authorized by section 201(g) of the Social Security Act from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein and $1,915,000 to be transferred and expended for patient outcome assessment research as authorized by section 9316 of Public Law 99-509, of which $1,245,000 will come from the Federal Hospital Insurance Trust Fund and $670,000 will come from the Federal Supplementary Medical Insurance Trust Fund, and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided,* That in addition to amounts provided herein, up to $15,318,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Medical Expenditure Survey and $5,827,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Health and Nutrition Examination Survey.

$106,737,000
1,005,000
(limitation on trust fund transfer)
1,915,000
(limitation on trust fund transfer)

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired

personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), such amounts as may be required during the current fiscal year. $89,176,000 *(indefinite)*

[*Total, Office of Assistant Secretary for Health, $195,913,000.*]

[*Total, Public Health Service:*

[*New budget (obligational) authority ..... $10,651,772,000.*]

[*Appropriations, definite ..... 10,562,596,000.*]

[*Appropriations, indefinite ..... 89,176,000.*]

[*Limitation on direct loans ..... 957,000.*]

[*Limitation on trust fund transfer ..... 2,920,000.*]

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $22,946,000,000, to remain available until expended. 22,946,000,000

For making, after May 31, 1988, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1988 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary. [1] *(and indefinite)*

Payment under title XIX may be made for any quarter beginning after June 30, 1987, and before October 1, 1988, with respect to any State plan or plan amendment in effect during any such quarter, if submitted in, or prior to such quarter and approved in that or any such subsequent quarter.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1989, $8,000,000,000, to remain available until expended. 8,000,000,000 *(advance appropriation, fiscal year 1989)*

[*Total, Grants to States for Medicaid, $30,946,000,000.*]

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of Public Law 97-248, $25,893,000,000. 25,893,000,000

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, $98,211,000, together with not to exceed $1,373,585,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein: *Provided*, That $105,314,000 of said trust funds shall be expended only to the extent necessary to process workloads not anticipated in the budget estimates, including the cost of administration of catastrophic health insurance if enacted into law, and to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limita- 98,211,000 *1,373,585,000 (limitation on trust fund transfer)*

[1] Budget authority used, if any, to be reported in subsequent year.

tion has been achieved: *Provided further,* That all funds derived in accordance with 31 U.S.C 9701, are to be credited to this appropriation.

[*Total, Health Care Financing Administration:*
[*New budget (obligational) authority* ..... *$56,937,211,000.*]
[*Appropriations, fiscal year 1988* ..... *48,937,211,000.*]
[*Advance appropriation, fiscal year 1989.* *8,000,000,000.*]
[*Limitation on trust fund transfer* ..... *1,373,585,000.*]

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 217(g), 228(g), and 1131(b)(2) of the Social Security Act and section 152 of Public Law 98–21, $105,298,000. — $105,298,000

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $663,452,000, to remain available until expended: *Provided,* That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act. — 663,452,000

For making, after July 31, of the current fiscal year benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary. — [1]*(and indefinite)*

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1989, $250,000,000, to remain available until expended. — 250,000,000 *(advance appropriation, fiscal year 1989)*

[*Total, Special Benefits for Disabled Coal Miners, $913,452,000.*]

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the social security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $9,535,384,000, to remain available until expended: *Provided,* That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury. — 9,535,384,000

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary. — [1]*(and indefinite)*

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1989, $3,000,000,000, to remain available until expended. — 3,000,000,000 *(advance appropriation, fiscal year 1989)*

[*Total, Supplemental Security Income Program, $12,535,384,000.*]

[1] Budget authority used, if any, to be reported in subsequent year.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $3,524,114,000, may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided,* That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further,* That $47,870,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further,* That not to exceed $53,040,000 for automatic data processing and telecommunications activities shall remain available until expended: *Provided further,* That none of the funds appropriated by this Act may be used for the manufacture, printing, or procuring of social security cards, as provided in section 205(c)(2)(D) of the Social Security Act, where paper and other materials used in the manufacture of such cards are produced, manufactured, or assembled outside of the United States. *$3,524,114,000 (limitation on administrative expenses)*

[*Total, Social Security Administration:*
[*New budget (obligational) authority* ..... *$13,554,134,000.*]
[*Appropriations, fiscal year 1988* ..... *10,304,134,000.*]
[*Advance appropriations, fiscal year 1989*..... *3,250,000,000.*]
[*Limitation on administrative expenses*..... *3,524,114,000.*]

FAMILY SUPPORT ADMINISTRATION

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV–A and –D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C., ch. 9), $8,644,385,000, to remain available until expended. 8,644,385,000

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–A and –D, X, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary. [1]*(and indefinite)*

For making payments to States or other non-Federal entities under titles I, IV–A and –D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C., ch. 9) for the first quarter of fiscal year 1989, $2,500,000,000, to remain available until expended. 2,500,000,000 *(advance appropriation, fiscal year 1989)*

[*Total, Family Support Payments to States, $11,144,385,000.*]

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,531,840,000. 1,531,840,000

[1] Budget authority used, if any, to be reported in subsequent year.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $346,933,000. $346,933,000

WORK INCENTIVES

For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such programs, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, $92,551,000 which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes. 92,551,000

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act, section 408 of Public Law 99-425 and the Stewart B. McKinney Homeless Assistance Act, $382,290,000 of which $18,909,000 shall be for carrying out section 681(a)(2)(A), $3,925,000 shall be for carrying out section 681(a)(2)(D), $2,968,000 shall be for carrying out section 681(a)(2)(E), $6,319,000 shall be for carrying out section 681(a)(2)(F), $239,000 shall be for carrying out section 681(a)(3), $2,872,000 shall be for carrying out section 408 of Public Law 99-425 and $2,394,000 shall be for carrying out section 681A with respect to the community food and nutrition program. 382,290,000

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C., ch. 9), title XXVI of the Omnibus Budget Reconciliation Act of 1981, the Community Services Block Grant Act, the Stewart B. McKinney Homeless Assistance Act, title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980, $79,464,000. 79,464,000

[*Total, Family Support Administration:*
[*New budget (obligational) authority* ..... *$13,577,463,000.*]
[*Appropriations, fiscal year 1988* ..... *11,077,463,000.*]
[*Advance appropriation, fiscal year 1989* ..... *2,500,000,000.*]

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANT

For carrying out the Social Services Block Grant Act, $2,700,000,000. 2,700,000,000

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, the Child Abuse Prevention and Treatment Act, section 404 of Public Law 98-473, the Family Violence Prevention and Services Act (title III of Public Law 98-457), the Native Americans Programs Act, title II of Public Law 95-266 (adoption opportunities), title II of the Children's Justice and Assistance Act of 1986, chapter 8-D of title VI of the

Omnibus Budget Reconciliation Act of 1981 (pertaining to grants to States for planning and development of dependent care programs), the Head Start Act, the Child Development Associate Scholarship Assistance Act of 1985, and part B of title IV and section 1110 of the Social Security Act, $2,455,532,000. $2,455,532,000

FAMILY SOCIAL SERVICES

For carrying out part E of title IV of the Social Security Act, $811,178,000. 811,178,000

[*Total, Assistant Secretary for Human Development Services, $5,966,710,000.*]

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, $67,840,000, together with not to exceed $6,702,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein, of which $4,308,000 shall be for construction and fixed equipment for the Mary Babb Randolph Center in West Virginia. 67,840,000 *6,702,000 (limitation on trust fund transfer)*

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, $35,769,000, together with not to exceed $38,296,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein. 35,769,000 *38,296,000 (limitation on trust fund transfer)*

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $16,343,000, together with not to exceed $3,830,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein. 16,343,000 *3,830,000 (limitation on trust fund transfer)*

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $4,873,000. 4,873,000

[*Total, Departmental Management:*
[*New budget (obligational) authority ..... $124,825,000.*]
[*Limitation on trust fund transfer ..... 48,828,000.*]

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 202. None of the funds made available by this Act for the National Institutes of Health may be used to provide forward funding or multiyear funding of research project grants except in those

cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 203. Appropriations in this Act for the Health Resources and Services Administration, the National Institutes of Health, the Centers for Disease Control, the Alcohol, Drug Abuse, and Mental Health Administration, the Office of the Assistant Secretary for Health, the Health Care Financing Administration, and Departmental Management shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed two thousand four hundred commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS–18; not to exceed $9,500 for official reception and representation expenses related to any health agency of the Department when specifically approved by the Assistant Secretary for Health.

SEC. 204. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 205. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 206. Funds appropriated in this title for the Social Security Administration shall be available for not to exceed $10,000 for official reception and representation expenses when specifically approved by the Commissioner of Social Security.

SEC. 207. Funds appropriated in this title for the Health Care Financing Administration shall be available for not to exceed $2,000 for official reception and representation expenses when specifically approved by the Administrator of the Health Care Financing Administration.

SEC. 208. No funds appropriated for the fiscal year ending September 30, 1988, by this or any other Act, may be used to pay basic pay,

special pays, basic allowances for subsistence and basic allowances for quarters of the commissioned corps of the Public Health Service described in section 204 of title 42, United States Code, at a level that exceeds 110 percent of the Executive Level I annual rate of basic pay: *Provided,* That amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts "Health Resources and Services", National Institutes of Health "Office of the Director", "Disease Control, Research, and Training", and "Federal Subsidy for Saint Elizabeths Hospital": *Provided further,* That none of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health.

SEC. 209. None of the funds appropriated in this title shall be used to transfer the general administration of programs authorized under the Native American Programs Act from the Department of Health and Human Services to the Department of the Interior.

SEC. 210. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 211. The Secretary shall make available through assignment not more than 50 employees of the Public Health Service, who shall be exempt from all FTE limitations in the Department, to assist in child survival activities through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization. In addition, commissioned officers assigned under this section shall be exempt from all limitations on the number and grade of officers in the Public Health Service Commissioned Corps.

SEC. 212. Funds appropriated by this Act may be used to pay physicians' comparability allowances, as authorized under 5 U.S.C. 5948.

SEC. 213. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

SEC. 214. The Secretary of Health and Human Services shall:

(1) Issue a report to Congress within 90 days of the close of fiscal year 1988, of violations occurring during such year, of Department of Health and Human Services travel policy.

(2) Require that personnel found by the report to be in violation of Department travel policy, shall reimburse the Department for funds spent in violation of Department policy.

SEC. 215. Section 465(B) of 42 U.S.C. 286 is amended by inserting between (5) and (6) an additional charge to the Secretary to "publicize the availability of the above products and services of the National Library of Medicine".

SEC. 216. Funds available in this title for activities related to acquired immune deficiency syndrome (AIDS) may be transferred between appropriation accounts upon the approval by the House and Senate Committees on Appropriations of a transfer request submitted by the Secretary of Health and Human Services.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1988".

[*Total, title, II, Department of Health and Human Services:*

[*New budget (obligational) authority*	*$100,812,115,000.*]
[*Appropriations, fiscal year 1988*	*87,062,115,000.*]
[*Definite*	*86,972,939,000.*]
[*Indefinite*	*89,176,000.*]
[*Advance appropriations, fiscal year 1989*	*13,750,000,000.*]
[*Limitation on administrative expenses*	*3,524,114,000.*]
[*Limitation on trust fund transfers*	*1,425,333,000.*]
[*Limitation on direct loans*	*957,000.*]

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out chapter 1 of the Education Consolidation and Improvement Act of 1981, as amended, $4,327,927,000, of which $7,181,000 shall be used for purposes of section 555(d) of said Act to provide technical assistance and evaluate programs, and the remaining $4,320,746,000 shall become available on July 1, 1988, and remain available until September 30, 1989: *Provided,* That of these remaining funds, no funds shall be used for purposes of section 554(a)(1)(B), $269,029,000 shall be available for purposes of section 554(a)(2)(A), $151,269,000 shall be available for purposes of section 554(a)(2)(B), $32,552,000 shall be available for purposes of section 554(a)(2)(C) and $38,296,000 shall be available for purposes of section 554(b)(1)(D). $4,327,927,000

For carrying out section 418A of the Higher Education Act, $8,616,000. 8,616,000

[*Total, Compensatory Education for the Disadvantaged, $4,336,543,000.*]

IMPACT AID

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), $685,498,000, of which $15,318,000 shall be for entitlements under section 2 of said Act and $670,180,000 shall be for entitlements under section 3 of said Act of which $536,144,000 shall be for entitlements under section 3(a) of said Act: *Provided,* That payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which 20 per centum or more of the total average daily attendance is made up of children determined eligible under section 3(b) shall be at 60 per centum of entitlement and payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which less than 20 per centum of the total average daily attendance is made up of children determined eligible under section 3(b) shall be ratably reduced from 100 per centum of entitlement: *Provided further,* That payments with respect to entitlements under section 3(a) to any local educational agency described in section 3(d)(1)(A) of said Act shall be at 100 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) shall be at 15 per centum of entitlement, so long as the fiscal year 1988 per pupil payment does not exceed 105 per centum of the fiscal year 1987 per pupil payment: *Provided further,* That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to at least 15 per centum but less than 20 per centum of such agency's total average daily attendance shall be at 75 per centum of entitlement, except that 685,498,000

payments on behalf of children who reside on property which is described in section 403(1)(C) shall be at 11.25 per centum of entitlement and the fiscal year 1988 local contribution rate for such agency shall not exceed 105 per centum of such agency's fiscal year 1987 local contribution rate: *Provided further,* That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to less than 15 per centum of such agency's total average daily attendance shall be ratably reduced from 100 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) of said Act shall be ratably reduced from 15 per centum of entitlement: *Provided further,* That the provisions of section 5(c) of said Act shall not apply to funds provided herein: *Provided further,* That payments with respect to entitlements under section 3(a) for any local educational agency that is described in section 3(d)(1)(A) and is coterminous with a military installation are not subject to limitations on increases in per pupil payments unless such agency's State aid payment is reduced as a result of its section 3 payment: *Provided further,* That the Secretary shall consider as timely filed requests for assistance filed after the applicable deadline and related to applications for assistance submitted under section 7 of said Act or section 16 of the Act of September 23, 1950, stemming from FEMA Disaster Number 753DR as declared on November 7, 1985: *Provided further,* That any payment made to a local educational agency for fiscal years prior to 1986 that is attributable to an incorrect determination under section 2(a)(1)(C) of such Act shall be deemed to have been made in accordance with such section, and any payment made to a local educational agency under section 3, for fiscal years prior to 1987, on behalf of children claimed by such agency for any such fiscal year who resided on or whose parents were employed on property that was housing assisted under section 8 of the United States Housing Act of 1937, as amended, shall stand, and such payments withheld or recovered shall be made or restored.

For carrying out the Act of September 23, 1950, as amended (20 U.S.C. ch. 19), $22,978,000 which shall remain available until expended, shall be for providing school facilities as authorized by said Act, of which $8,617,000 shall be for awards under section 10 of said Act, $10,053,000 shall be for awards under sections 14(a) and 14(b) of said Act, and $4,308,000 shall be for awards under sections 5, 9 and 14(c) of said Act: *Provided further,* That funds appropriated under the heading "School Assistance in Federally Affected Areas" in Public Law 98-8 that are available for obligation shall be available until expended for the purposes of sections 14(a) and 14(b). $22,978,000

[*Total, Impact Aid, $708,476,000.*]

SPECIAL PROGRAMS

For carrying out the consolidated programs and projects authorized under chapter 2 of the Education Consolidation and Improvement Act of 1981, as amended, $508,439,000, of which $29,739,000 shall be for programs and projects authorized under subchapter D of said Act, including $10,244,000 for programs and projects authorized under subsection 583(a)(1) of said Act; $4,308,000 shall be used for awards, which, except for educational television programming, are not to exceed a cumulative amount of $957,000 to any recipient for national impact demonstration or research projects; $7,659,000 for activities authorized under subsection 583(b)(1) of said Act; $3,315,000 for programs authorized under subsection 583(b)(2) of said Act; and $3,830,000 for activities authorized under subsection 583(b)(4) of said Act; and $383,000 for national school volunteer programs: *Provided,* That $478,700,000 to 508,439,000

carry out the State block grant program authorized under chapter 2 of said Act shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989.

For grants to State educational agencies and desegregation assistance centers authorized under section 403 of the Civil Rights Act of 1964, $23,456,000. $23,456,000

For carrying out activities authorized under title IX, part C of the Elementary and Secondary Education Act, $3,351,000. 3,351,000

For carrying out activities authorized under section 1524 of the Education Amendments of 1978, $4,787,000. 4,787,000

For carrying out activities authorized under section 1525 of the Education Amendments of 1978, $1,915,000. 1,915,000

For carrying out activities authorized under Public Law 92-506, as amended, $2,394,000: *Provided,* That said sum shall become available on July 1, 1988, and shall remain available until September 30, 1989. 2,394,000

For carrying out activities authorized under the Drug-Free Schools and Communities Act of 1986, $229,776,000, of which $191,480,000 for grants to States and outlying areas shall be available beginning July 1, 1988, and shall remain available until September 30, 1989: *Provided,* That State educational agencies allot fiscal year 1988 funds to local and intermediate educational agencies and consortia under section 4124(a) of the Act on the basis of their relative enrollments in public and private nonprofit schools. 229,776,000

For carrying out the provisions of title VII of the Education for Economic Security Act, relating to magnet schools assistance, $71,805,000: *Provided,* That not more than $4,000,000 in the fiscal year may be paid to any single eligible local educational agency. 71,805,000

For carrying out the provisions of title II of the Education for Economic Security Act, $119,675,000 of which $108,904,000, for grants to States and outlying areas under section 204 shall become available on July 1, 1988, and shall remain available until September 30, 1989. 119,675,000

For carrying out the provisions of subpart 2 of part C of title V of the Higher Education Act, $8,222,000, to become available July 1, 1988, and to remain available until September 30, 1989. 8,222,000

For carrying out the provisions of subpart 2 of part D of title V of the Higher Education Act, $1,915,000. 1,915,000

For carrying out the provisions of subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act, $4,787,000 to become available July 1, 1988, and remain available through September 30, 1989. 4,787,000

For carrying out activities authorized under the Follow Through Act, $7,133,000. 7,133,000

For carrying out activities authorized under section 137(a) of this joint resolution relating to dropout prevention, $23,935,000. 23,935,000

For carrying out activities authorized under section 137(b) of this joint resolution relating to workplace literacy, $9,574,000. 9,574,000

For carrying out activities authorized under section 137(c) of this joint resolution relating to Star Schools, $19,148,000: *Provided,* That grants under the Star Schools program shall be awarded through a competitive grant process. 19,148,000

[*Total, Special Programs, $1,040,312,000.*]

BILINGUAL EDUCATION

For carrying out, to the extent not otherwise provided, title VII of the Elementary and Secondary Education Act, Refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act, part B of title III of the Refugee Act of 1980, and title VI of the Education Amendments of 1984, $190,504,000, of which $101,198,000 shall be for part A, $9,928,000 shall be for part B, 190,504,000

and $35,447,000 shall be for part C of title VII of the Elementary and Secondary Education Act and $28,722,000 shall be for the Emergency Immigrant Education Program authorized by title VI of the Education Amendments of 1984. Of the funds provided under this head in fiscal year 1987 in section 101(i) of Public Laws 99-500 and 99-591, for carrying out title VII of the Elementary and Secondary Education Act, which are unobligated, $1,247,000 are reappropriated to carry out title VI of the Education Amendments of 1984 to be used to fund the amended application from the State of Texas for the Emergency Immigrant Education Program: *Provided,* That the reappropriated funds shall be available until September 30, 1988. $1,247,000

[*Total, Bilingual Education, $191,751,000.*]

[*Total, Office of Elementary and Secondary Education, $6,277,082,000.*]

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, $1,869,019,000, of which $1,431,737,000 for section 611, $201,054,000 for section 619, and $67,018,000 for section 685 shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989: *Provided,* That notwithstanding section 621(e) of the Education of the Handicapped Act, up to $479,000 may be used for section 621(d) of that Act: *Provided further,* That the amount appropriated for section 685 of the Education of the Handicapped Act in Public Laws 99-500 and 99-591, section 101(i), for fiscal year 1987 shall remain available for obligation by the States until September 30, 1989. 1,869,019,000

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973 and the Helen Keller National Center Act, as amended, $1,590,400,000, of which $1,379,500,000 shall be for allotments under sections 100(b)(1) and 110(b)(3) of the Rehabilitation Act, $16,590,000 shall be for special demonstration programs under sections 311 (a), (b), and (c), and $4,800,000 shall be for the Helen Keller National Center: *Provided,* That $500,000 shall be available on a competitive basis for research and training for hearing loss assessments for native Hawaiian children under section 204 of such Act until September 30, 1989: *Provided further,* That the amount appropriated for title VI, part C of the Rehabilitation Act in Public Laws 99-500 and 99-591, section 101(i), for fiscal year 1987 shall remain available for obligation by the States until September 30, 1989. 1,590,400,000

[*Total, Office of Special Education and Rehabilitation Services, $3,459,419,000.*]

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational Education Act, and the Adult Education Act and the Stewart B. McKinney Homeless Assistance Act, $1,005,557,000 which shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989: *Provided,* That $25,658,000 shall be available for title IV of the Carl D. Perkins Vocational Education Act, of which $7,276,000 shall be for part A, including $5,744,000 for section 404, $14,792,000 shall be for part B, including $14,361,000 for section 411 and $3,590,000 shall be for part C of said title: *Provided further,* That $7,851,000 shall be available for State councils under section 112 of the Carl D. Perkins Vocational Education Act: *Provided further,* That $6,845,000 shall be 1,005,557,000

made available to carry out title III-A and $32,791,000 shall be made available for title III-B of said Vocational Education Act: *Provided further,* That $3,734,000 shall be available for part E of title IV of the Carl D. Perkins Vocational Education Act: *Provided further,* That section 202 of the Carl D. Perkins Vocational Education Act is amended—

(1) by inserting (a) after the section designation, and

(2) by adding at the end thereof the following new subsection:

"(b) Funds provided for fiscal year 1988 and described in clause (4) of subsection (a) shall also be available for single pregnant women.".

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A and parts C and E of title IV of the Higher Education Act, as amended, $5,544,792,000, which shall remain available until September 30, 1989: *Provided,* That the maximum Pell grant that a student may receive in the 1988-1989 award year shall be $2,200. $5,544,792,000

GUARANTEED STUDENT LOANS

For necessary expenses under title IV, part B of the Higher Education Act, $2,565,000,000, to remain available until expended. 2,565,000,000

HIGHER EDUCATION

For carrying out title III of the Higher Education Act of 1965, as amended, $152,370,000, of which up to $19,148,000 for section 332 of part C of title III of said Act shall remain available until expended: *Provided,* That $73,161,500 of funds appropriated for title III of said Act shall be available only to historically black colleges and universities. 152,370,000

For carrying out subparts 4 and 6 of part A of title IV; part B and subpart 1 of part D of title V; titles VI and VIII, parts A, B, C, D, E, and F of title IX, notwithstanding section 971(g); part B and part D of title VII; subpart 1 of part B and parts A and C of title X; and sections 420A and 1204(c) of the Higher Education Act of 1965, as amended; title XIII, part H, subpart 1 of the Education Amendments of 1980, as amended; and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961; $367,884,000, of which $28,244,000 for parts B and D of title VII shall remain available until expended: *Provided,* That $7,659,000 provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d-37(b) and 1070d-39(a)): *Provided further,* That $239,000 of the amount provided for part B of title IX shall be competitively awarded to a consortium of historically black colleges and doctoral degree-granting institutions to provide supplemental need-based financial aid to students and faculty from historically black colleges who are pursuing doctoral studies. 367,884,000

For carrying out sections 772, 773, 775, and 776 of part G of title VII of the Higher Education Act, sections 1-5 of Public Law 99-608, and title III, section 303 of Public Law 98-480, $14,217,000 to remain available until expended. 14,217,000

Of any funds appropriated in fiscal year 1988 for a grant to an appropriate consortium of institutions of higher education for carrying out part B of title VII of the Higher Education Act, the limitations contained in sections 702(a) and 721(a)(2) shall not apply.

[*Total, Higher Education, $534,471,000.*]

HIGHER EDUCATION FACILITIES LOANS AND INSURANCE

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year. For the fiscal year 1988, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

COLLEGE CONSTRUCTION LOAN INSURANCE

For carrying out part E of title VII of the Higher Education Act of 1965, as amended, $19,148,000 to be available until expended. $19,148,000

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation using loan repayments and other resources available to this account: *Provided,* That during fiscal year 1988, gross commitments for the principal amount of direct loans shall be $62,231,000. *62,231,000 (limitation on direct loans)*
Any unobligated balances remaining from fixed fees previously paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

Whenever the Secretary, pursuant to sections 762(c) or 783 of the Act, sells, exchanges, or otherwise transfers on a discounted basis obligations or securities held by the Secretary under title VII, part F of the Act, the outstanding balance remaining on the notes of the Secretary issued to the Secretary of the Treasury under section 761(d) of the Act shall be reduced by the amount of the discount. For such transactions occurring prior to the fiscal year 1988, such reduction is effective on September 30, 1987. For such transactions occurring in fiscal year 1988 or thereafter, such reduction is to be effective on the last day of the fiscal year in which the discounted transaction occurs.

[*Total, Office of Postsecondary Education, $8,663,411,000.*]

EDUCATION RESEARCH AND STATISTICS

For necessary expenses to carry out sections 405 and 406 of the General Education Provisions Act, as amended, $67,526,000, of which $13,390,000 shall be used for the Center for Education Statistics, as authorized under section 406 of the General Education Provisions Act, and $7,563,000 shall be for the National Assessment of Educational Progress, as authorized under section 405(e)(1) of the General Education Provisions Act: *Provided,* That $3,830,000 of the sums appropriated shall be used to continue a rural education program by the nine regional laboratories. 67,526,000

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, and VI of the Library Services and Construction Act (20 U.S.C., ch. 16), and title II, parts B, C, and D of the Higher Education Act, notwithstanding the provisions of section 221, $135,089,000: *Provided,* That $22,595,000 of the sums appropriated shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended. 135,089,000

[*Total, Office of Educational Research and Improvement, $202,615,000.*]

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101–106), including provision of materials to adults undergoing rehabilitation on the same basis as provided in 1985, $5,266,000. $5,266,000

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $31,594,000, of which $191,000 shall be for the endowment program as authorized under section 408 and shall be available until expended: *Provided,* That none of the funds provided herein may be used to subsidize the tuition of foreign students. 31,594,000

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), including continuing education activities, existing extension centers and the National Center for Law and the Deaf, $62,195,000, of which $957,000 shall be for the endowment program as authorized under section 407 and shall be available until expended. 62,195,000

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $172,203,000. 172,203,000

[*Total, Special Institutions, $271,258,000.*]

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $241,028,000. 241,028,000

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $40,530,000. 40,530,000

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $17,560,000. 17,560,000

[*Total, Departmental Management, $299,118,000.*]

GENERAL PROVISIONS

SEC. 301. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their

personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 302. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to audit by the Secretary of Education.

SEC. 303. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 304. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 305. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 306. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1988".

[*Total, title III, Department of Education:*
[*New budget (obligational) authority* ..... *$20,178,460,000.*]
[*Limitation on direct loans* ..... *62,231,000.*]

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $163,085,000. $163,085,000

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1990, $232,648,000: *Provided,* That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further,* That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex. $232,648,000 *(advance appropriation, fiscal year 1990)*

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171–180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93–360 for mandatory mediation in health care industry negotiation disputes and for convening factfinding boards of inquiry appointed by the Director in the health care industry; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 125a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95–454 (5 U.S.C. chapter 71), $24,510,000. 24,510,000

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $3,906,000. 3,906,000

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345), $718,000. 718,000

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

OPERATING EXPENSES

Funds appropriated for operating expenses of the National Commission to Prevent Infant Mortality in the Supplemental Appropriations Act, 1987 (Public Law 100–71) shall remain available until expended.

NATIONAL COUNCIL ON THE HANDICAPPED

SALARIES AND EXPENSES

For expenses necessary for the National Council on the Handicapped as authorized by section 405 of the Rehabilitation Act of 1973, as amended, $892,000. 892,000

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $133,097,000: *Provided,* That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes. $133,097,000

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $7,004,000. 7,004,000

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $5,885,000. 5,885,000

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $2,997,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund. *2,997,000 (limitation on trust fund transfer)*

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 601 of Public Law 98-21, $3,592,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds. *3,592,000 (limitation on trust fund transfer*

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $352,323,000, all of which shall be credited to the account in 12 approximately equal amounts on the first day of each month in the fiscal year. 352,323,000

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for unnegotiated checks, $3,100,000, to remain available through September 30, 1989, which shall be the maximum amount available for payments pursuant to section 417 of Public Law 98–76. $3,100,000

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $57,860,000, to be derived from the railroad retirement accounts: *Provided,* That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 1,254 full-time equivalent employees: *Provided further,* That $479,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further,* That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a–r): *Provided further,* That not to exceed $2,500,000 of funds provided under this head in Public Law 99–591 shall remain available until September 30, 1988, only for retirement claims processing automation activities. *57,860,000 (limitation on administrative expenses)*

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $13,830,000 shall be apportioned for fiscal year 1988 from moneys credited to the railroad unemployment insurance administration fund: *Provided,* That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 303 full-time equivalent employees. *13,830,000 (limitation on administrative expenses)*

LIMITATION ON REVIEW ACTIVITY

For expenses necessary for the Railroad Retirement Board for audit, investigatory and review activities, as authorized by section 418 of Public Law 98–76, not more than $2,212,000 to be derived from the railroad retirement accounts and railroad unemployment insurance account. *2,212,000 (limitation on administrative expenses)*

[*Total, Railroad Retirement Board, $355,423,000.*]

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, $35,879,000: *Provided,* That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army. 35,879,000 *(trust fund)*

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Soldiers' and Airmen's Home permanent fund, $15,445,000, to remain available until expended. $15,445,000 *(trust fund)*

[*Total, Soliders' and Airmen's Home, $51,324,000.*]

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $4,308,000. 4,308,000

[*Total, title IV, Related Agencies:*

[*New budget (obligational) authority*	*$982,800,000.*]
[*Appropriations, fiscal year 1988*	*750,152,000.*]
[*Advance appropriation, fiscal year 1990*	*232,648,000.*]
[*Limitation on trust fund transfers*	*6,589,000.*]
[*Limitation on administrative expenses*	*73,902,000.*]

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided,* That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor, Health and Human Services, and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I, II, and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. None of the funds appropriated by this Act shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

SEC. 512. (a)(1) In the cases of all appropriations accounts within this Act from which expenses for travel, transportation, and subsistence (including per diem allowances) are paid under chapter 57 of title 5, United States Code, there are hereby prohibited to be obligated under such accounts in fiscal year 1988 a uniform percentage of such amounts, as determined by the President in accordance with the provisions of paragraph (2), as, but for this subsection, would—

(A) be available for obligation in such accounts as of October 1, 1987,

(B) be planned to be obligated for such expenses after such date during fiscal year 1988, and

(C) result in total outlays of $23,600,000 in fiscal year 1988.

(2) Before making determinations under paragraph (1), the President shall obtain from the Director of the Office of Management and Budget and the Comptroller General of the United States recommendations for determinations with respect to (A) the identification of the accounts affected, (B) the amount in each such account

available as of such date for obligation, (C) the amounts planned to be obligated for such expenses after such date in fiscal year 1988, and (D) the uniform percentage by which such amounts need to be reduced in order to comply with paragraph (1).

(b) Within 30 days after the date of enactment of this Act, the President shall prepare and transmit to the Congress a report specifying the determinations of the President under subsection (a).

(c) Sections 1341(a) and 1517 of title 31, United States Code, apply to each account for which a determination is made by the President under subsection (a).

SEC. 513. (a) Subject to subsection (b), none of the funds made available by this or any other Act may be used by the Secretary of Labor to withdraw approval of the California State occupational safety and health plan, or to exercise exclusive Federal safety and health authority in the State of California, under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) The prohibition established in subsection (a) shall apply until the California Supreme Court has rendered a final disposition in the case of Ixta v. Rinaldi (Case No. 3 Civil C 002805).

SEC. 514. (a) Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote or encourage, directly, homosexual sexual activities.

(b) Education, information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

(1) abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activities) and

(2) abstinence from the use of illegal intravenous drugs.

(c) The homosexual activity referred to in subsections (a) and (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

(d) The illegal drugs referred to in subsection (b) include any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).

(e) If the Secretary of Health and Human Services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—

(1) no further funds shall be provided to the recipient;

(2) no further funds shall be provided to the State with respect to noncompliance by the individual recipient;

(3) further payment shall be limited to those recipients not participating in such noncompliance; and

(4) the recipient shall repay to the United States, amounts found not to have been expended in accordance with this section.

SEC. 515. In administering funds made available under this Act for research relating to the treatment of AIDS, the National Institutes of Health shall take all possible steps to ensure that all experimental drugs for the treatment of AIDS, particularly antivirals and immunomodulators, that have shown some effectiveness in treating individuals infected with the human immunodeficiency virus are tested in clinical trials as expeditiously as possible and with as many subjects as is scientifically acceptable.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1988".

[*Total, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations, 1988:*

[*New budget (obligational) authority*	*$128,245,381,000.*]
[*Appropriations, fiscal year 1988*	*114,262,733,000.*]
[*Definite*	*114,134,001,000.*]
[*Indefinite*	*128,732,000.*]
[*Advance appropriations, fiscal year 1989*	*13,750,000,000.*]
[*Advance appropriation, fiscal year 1990*	*232,648,000.*]
[*Limitation on administrative expenses*	*3,598,016,000.*]
[*Limitation on trust fund transfers*	*4,121,161,000.*]
[*Limitation on direct loans*	*63,188,000.*]

(Legislative Branch Appropriations Act, 1988)

(i) Such amounts as may be necessary for programs, projects or activities provided for in the Legislative Branch Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for the Legislative Branch for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—CONGRESSIONAL OPERATIONS

SENATE

MILEAGE OF THE VICE PRESIDENT AND SENATORS

For mileage of the Vice President and Senators of the United States, $60,000. $60,000

EXPENSE ALLOWANCES OF THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, MAJORITY AND MINORITY LEADERS, MAJORITY AND MINORITY WHIPS, AND CHAIRMEN OF THE MAJORITY AND MINORITY CONFERENCE COMMITTEES

For expense allowances of the Vice President, $10,000; the President Pro Tempore of the Senate, $10,000; Majority Leader of the Senate, $10,000; Minority Leader of the Senate, $10,000; Majority Whip of the Senate, $5,000; Minority Whip of the Senate, $5,000; and Chairmen of the Majority and Minority Conference Committees, $3,000 for each Chairman; in all, $56,000. 56,000

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, $10,000 for each such Leader, in all $20,000. 20,000

[*Total, expense allowances, $76,000.*]

[*Total, mileage and expense allowances, Vice President and Senators, $136,000.*]

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, clerks to Senators, and others as authorized by law, including agency contributions, $196,196,700 which shall be paid from this appropriation without regard to the below limitations, as follows: 196,196,700

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $1,145,000. ($1,145,000)

OFFICE OF THE PRESIDENT PRO TEMPORE

For Office of the President Pro Tempore, $153,000. (153,000)

OFFICE OF THE DEPUTY PRESIDENT PRO TEMPORE

For the Office of the Deputy President Pro Tempore, $90,000. (90,000)

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $1,388,000. (1,388,000)

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $431,000. (431,000)

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $556,500 for each such committee; in all, $1,113,000. (1,113,000)

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $270,000. (270,000)

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $115,000. (115,000)

OFFICE OF THE SECRETARY

For Office of the Secretary, $8,005,000. (8,005,000)

ADMINISTRATIVE, CLERICAL, AND LEGISLATIVE ASSISTANCE TO SENATORS

For administrative, clerical, and legislative assistance to Senators, $109,605,500. (109,605,500)

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $44,161,000. (44,161,000)

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $918,000. (918,000)

AGENCY CONTRIBUTIONS

For agency contributions for employee benefits, as authorized by law, $28,802,200. (28,802,200)

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $1,764,000: *Provided*, That the amounts appropriated to the Office of the Legislative Counsel of the Senate for fiscal year 1987 shall remain available until September 30, 1988. 1,764,000

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, $633,000. $633,000

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, $3,000; Sergeant at Arms and Doorkeeper of the Senate, $3,000; Secretary for the Majority of the Senate, $3,000; Secretary for the Minority of the Senate, $3,000; in all, $12,000. 12,000

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $1,101,500 for each such committee; in all, $2,203,000. 2,203,000

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96-304 and Senate Resolution 281, agreed to March 11, 1980, $57,161,000. 57,161,000

EXPENSES OF UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, as authorized by section 814 of the Foreign Relations Authorization Act passed by the Senate on July 31, 1985 $325,000. 325,000

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $666,300. 666,300

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $68,021,000: *Provided,* That of the amounts appropriated under this head in the Legislative Branch Appropriations Act, 1986 (Public Law 99-151), $2,250,000 shall remain available until September 30, 1988. 68,021,000

MISCELLANEOUS ITEMS

For miscellaneous items, $10,183,000: *Provided,* That, from funds appropriated to the Conference of the Majority and from funds appropriated to the Conference of the Minority for any fiscal year, such Conference may utilize such amounts as it deems appropriate for the specialized training of professional staff, subject to such limitations, insofar as they are applicable, as are imposed by the Committee on Rules and Administration with respect to such training when provided to professional staff of standing committees of the Senate. 10,183,000

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, $8,500; in all, $13,000. 13,000

[*Total, contingent expenses of the Senate, $138,572,300.*]

[*Total, Senate, $337,314,000.*]

ADMINISTRATIVE PROVISIONS

SEC. 1. (a) The table and the sentence immediately following such table in subsection (d)(1) of section 105 of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61-1(d)(1)), is amended to read as follows:

"$740,000 if the population of his State is less than 1,000,000;
"$775,950 if such population is 1,000,000 but less than 2,000,000;
"$811,900 if such population is 2,000,000 but less than 3,000,000;
"$847,850 if such population is 3,000,000 but less than 4,000,000;
"$883,800 if such population is 4,000,000 but less than 5,000,000;
"$919,750 if such population is 5,000,000 but less than 6,000,000;
"$955,700 if such population is 6,000,000 but less than 7,000,000;
"$991,650 if such population is 7,000,000 but less than 8,000,000;
"$1,027,600 if such population is 8,000,000 but less than 9,000,000;
"$1,063,550 if such population is 9,000,000 but less than 10,000,000;
"$1,099,500 if such population is 10,000,000 but less than 11,000,000;
"$1,135,450 if such population is 11,000,000 but less than 12,000,000;
"$1,171,400 if such population is 12,000,000 but less than 13,000,000;
"$1,207,350 if such population is 13,000,000 but less than 14,000,000;
"$1,243,300 if such population is 14,000,000 but less than 15,000,000;
"$1,279,250 if such population is 15,000,000 but less than 16,000,000;
"$1,315,200 if such population is 16,000,000 but less than 17,000,000;
"$1,351,150 if such population is 17,000,000 but less than 18,000,000;
"$1,374,150 if such population is 18,000,000 but less than 19,000,000;
"$1,397,150 if such population is 19,000,000 but less than 20,000,000;
"$1,420,150 if such population is 20,000,000 but less than 21,000,000;
"$1,443,150 if such population is 21,000,000 but less than 22,000,000;
"$1,466,150 if such population is 22,000,000 but less than 23,000,000;
"$1,489,150 if such population is 23,000,000 but less than 24,000,000;
"$1,512,150 if such population is 24,000,000 but less than 25,000,000;
"$1,535,150 if such population is 25,000,000 but less than 26,000,000;
"$1,558,150 if such population is 26,000,000 but less than 27,000,000;
"$1,581,150 if such population is 27,000,000 but less than 28,000,000; and
"$1,604,150 if such population is 28,000,000 or more.

"For any fiscal year, the population of a State shall be deemed to be whichever of the following is the higher:

"(I) the population of such State (as determined for purposes of this paragraph) for the preceding fiscal year; or

"(II) the population of such State as of the first day of such fiscal year, as determined by the latest census (provisional or otherwise) conducted prior to such first day by the Bureau of the Census within the Department of Commerce.

"If the population of any State, as determined under the preceding sentence, is not evenly divisible by 1,000,000, the population of such State shall be deemed to be increased to the next higher multiple of 1,000,000.

"If, for any period after a fiscal year has begun, the census figures of the most recent census conducted prior to the first day of such year have not been officially released, then, for such period, in the administration of this paragraph, it shall be assumed that the population of each State is the same as such State's population (as determined for purposes of this paragraph) for the preceding fiscal year.

"In the event that the term of office of a Senator begins after the first month of a fiscal year or ends (except by reason of death, resignation, or expulsion) before the last month of a fiscal year, the aggregate amount available for gross compensation of employees in the office of such Senator for such year shall be the applicable amount contained in the preceding table, divided by 12, and multiplied by the number of months in such year which are included in the Senator's term of office, counting any fraction of a month as a full month.".

(b) The amendment made by this section shall be effective in the case of fiscal years beginning after September 30, 1987.

SEC. 2. (a) Effective with respect to pay periods beginning on or after the enactment of this Act, the Chaplain of the Senate shall be compensated at a rate equal to the annual rate of basic pay for level

IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) The second proviso, under the headings "SENATE" and "Office of the Chaplain", of the Legislative Branch Appropriation Act, 1970 (Public Law 91-145) is amended to read as follows: "*Provided further,* That the Chaplain of the Senate may appoint and fix the compensation of a secretary".

SEC. 3. (a) Section 192 of title I, Chapter IX, of the Supplemental Appropriations Act, 1985 (Public Law 99-88; 99 Stat. 349; 2 U.S.C. 68-5) is amended—

(1) by striking out "and", where it appears immediately after "Minority Whip of the Senate,", and inserting in lieu thereof "one for the attending physician, one as authorized by Senate Resolution 90 of the 100th Congress"; and

(2) by inserting immediately before the period at the end of such section the following: ", and such additional number as is otherwise specifically authorized by law".

(b) The amendments made by subsection (a) shall be effective in the case of fiscal years ending after September 30, 1986.

SEC. 4. Section 151(a) of Public Law 99-591 (100 Stat. 3341-3355) is amended by striking out "during fiscal year 1987".

SEC. 5. Subsection (i) of section 814 of the Foreign Relations Authorization Act, fiscal years 1986 and 1987 (Public Law 99-93), as amended by Public law 99-151, is amended by striking out "1987" and inserting "1988".

SEC. 6. Effective in the case of fiscal years beginning after September 30, 1986, the first sentence of section 107(a) of the Supplemental Appropriations Act, 1979 (Public Law 96-38; 2 U.S.C. 69a), is amended by striking out "$2,000" and inserting in lieu thereof "$4,000".

SEC. 7. The Chairman of the Majority or Minority Conference Committee of the Senate may, during the fiscal year ending September 30, 1988, at his election, transfer not more than $50,000 from the appropriation account for salaries for the Conference of the Majority and the Conference of the Minority of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6). Any transfer of funds under authority of the preceding sentence shall be made at such time or times as such chairman shall specify in writing to the Senate Disbursing Office. Any funds so transferred by the chairman of the Majority or Minority Conference Committee shall be available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6).

SEC. 8. (a) The Secretary of the Senate is authorized, with the approval of the Senate Committee on Appropriations, to transfer, during any fiscal year, from the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Secretary of the Senate, such sums as he shall specify to the Senate appropriations account, appropriated under the headings "Salaries, Officers and Employees" and "Office of the Secretary"; and any funds so transferred shall be available in like manner and for the same purposes as are other funds in the account to which the funds are transferred.

(b) The Sergeant at Arms and Doorkeeper of the Senate is au-

thorized, with the approval of the Senate Committee on Appropriations, to transfer, during any fiscal year, from the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, such sums as he shall specify to the appropriations account, appropriated under the headings "Salaries, Officers and Employees" and "Office of the Sergeant at Arms and Doorkeeper"; and any funds so transferred shall be available in like manner and for the same purposes as are other funds in the account to which the funds are transferred.

SEC. 9. Section 114 of Public Law 95-94, as amended (2 U.S.C. 61-1a), is amended to read as follows:

"SEC. 114. Notwithstanding any other provision of law appropriated funds are available for payment to an individual of pay from more than one position, each of which is either in the office of a Senator and the pay of which is disbursed by the Secretary of the Senate or is in another office and the pay of which is disbursed by the Secretary of the Senate out of an appropriation under the heading "SALARIES, OFFICERS, AND EMPLOYEES", if the aggregate gross pay from those positions does not exceed the maximum rate specified in section 105(d)(2) of the Legislative Appropriations Act of 1968, as amended and modified.".

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Lucie C. McKinney, widow of Stewart B. McKinney, late a Representative from the State of Connecticut, $89,500. $89,500

MILEAGE OF MEMBERS

For mileage of Members, as authorized by law, $210,000. 210,000

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $3,456,000, including: Office of the Speaker, $798,000, including $18,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $708,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $789,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, $621,000, including $5,000 for official expenses of the Majority Whip and not to exceed $149,950 for the Chief Deputy Majority Whip; Office of the Minority Whip, $540,000, including $5,000 for official expenses of the Minority Whip and not to exceed $79,150 for the Chief Deputy Minority Whip. 3,456,000

MEMBERS' CLERK HIRE

For staff employed by each Member in the discharge of his official and representative duties, $174,556,000. 174,556,000

COMMITTEE EMPLOYEES

For professional and clerical employees of standing committees, including the Committee on Appropriations and the Committee on the Budget, $49,102,000. 49,102,000

COMMITTEE ON THE BUDGET (STUDIES)

For salaries, expenses, and studies by the Committee on the Budget, and temporary personal services for such committee to be expended in accordance with sections 101(c), 606, 703, and 901(e) of the Congressional Budget Act of 1974, and to be available for reimbursement to agencies for services performed, $329,000. $329,000

CONTINGENT EXPENSES OF THE HOUSE

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by the House, $52,418,000. 52,418,000

ALLOWANCES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For allowances and expenses as authorized by House resolution or law, $174,797,000, including: Official Expenses of Members, $81,523,000; supplies, materials, administrative costs and Federal tort claims, $16,719,000; furniture and furnishings, $1,005,000; stenographic reporting of committee hearings, $550,000; reemployed annuitants reimbursements, $1,118,000; Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation, $73,260,000; and miscellaneous items including, but not limited to, purchase, exchange, maintenance, repair and operation of House motor vehicles, restaurants, interparliamentary receptions and gratuities to heirs of deceased employees of the House, $622,000: *Provided,* That effective upon enactment of this Act, an amount not to exceed $132,000 shall be made available by transfer from the appropriation for "House office buildings, 1987, No year" for deposit in the account established by section 208 of the First Supplemental Civil Functions Appropriations Act, 1941 (40 U.S.C. 174k(b)). 174,797,000 *132,000 (by transfer)*

Such amounts as are deemed necessary for the payment of allowances and expenses under this head may be transferred between the various categories within this appropriation, "Allowances and expenses", upon the approval of the Committee on Appropriations of the House of Representatives.

[*Total, contingent expenses of the House, $227,215,000.*]

COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)

For salaries and expenses, studies and examinations of executive agencies, by the Committee on Appropriations, and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act, 1946, and to be available for reimbursement to agencies for services performed, $4,300,000. 4,300,000

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $54,529,000, including: Office of the Clerk, $14,917,000; Office of the Sergeant at Arms, including overtime, as authorized by law, $21,180,000; Office of the Doorkeeper, including overtime, as authorized by law, $7,915,000; Office of the Postmaster, $2,517,000, including $48,124 for employment of substitute messengers and extra services of regular employees when required at the salary rate of not to exceed $16,766 per annum each; Office of the Chaplain, $75,000; Office of the Parliamentarian, including the 54,529,000

Parliamentarian and $2,000 for preparing the Digest of Rules, $716,000; for salaries and expenses of the Office for the Bicentennial of the House of Representatives, $243,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $870,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $3,025,000; six minority employees, $447,000; the House Democratic Steering Committee and Caucus, $721,000; the House Republican Conference, $721,000; and other authorized employees, $1,182,000.

Such amounts as are deemed necessary for the payment of salaries of officers and employees under this head may be transferred between the various offices and activities within this appropriation, "Salaries, officers and employees", upon the approval of the Committee on Appropriations of the House of Representatives.

[*Total, House of Representatives, $513,786,500.*]

ADMINISTRATIVE PROVISIONS

SEC. 101. Of the amounts appropriated in fiscal year 1988 for the House of Representatives under the headings "Committee employees", "Standing committees, special and select", "Salaries, officers and employees", "Allowances and expenses", "House leadership offices", and "Members' clerk hire", such amounts as are deemed necessary for the payment of salaries and expenses may be transferred among the aforementioned accounts upon approval of the Committee on Appropriations of the House of Representatives.

SEC. 102. (a) One additional employee is authorized for each of the following:

(1) the House Democratic Steering and Policy Committee; and

(2) the House Republican Conference.

(b) The annual rate of pay for the positions established under subsection (a) shall not exceed 60 percent of the annual rate of pay payable from time to time for level V of the Executive Schedule under section 5316 of title 5, United States Code.

JOINT ITEMS

For joint committees, as follows:

CONTINGENT EXPENSES OF THE SENATE

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $3,179,000. $3,179,000

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, $1,037,000. 1,037,000

[*Total, contingent expenses of the Senate, $4,216,000.*]

CONTINGENT EXPENSES OF THE HOUSE

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $4,219,000, to be disbursed by the Clerk of the House. 4,219,000

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,000 per month to the Attend-

ing Physician; (2) an allowance of $600 per month to one Senior Medical Officer while on duty in the Attending Physician's office; (3) an allowance of $200 per month each to two medical officers while on duty in the Attending Physician's office; (4) an allowance of $200 per month each to not to exceed twelve assistants on the basis heretofore provided for such assistance; and (5) $963,600 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, such amount shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,493,000, to be disbursed by the Clerk of the House. $1,493,000

CAPITOL POLICE

GENERAL EXPENSES

For purchasing and supplying uniforms; the purchase, maintenance, and repair of police motor vehicles, including two-way police radio equipment; contingent expenses, including advance payment for travel for training or other purposes, and expenses associated with the relocation of instructor personnel to and from the Federal Law Enforcement Training Center as approved by the Chairman of the Capitol Police Board, and including $85 per month for extra services performed for the Capitol Police Board by such member of the staff of the Sergeant at Arms of the Senate or the House as may be designated by the Chairman of the Board, $1,734,000, to be disbursed by the Clerk of the House: *Provided,* That the funds used to maintain the petty cash fund referred to as "Petty Cash II" which is to provide for the prevention and detection of crime shall not exceed $4,000: *Provided further,* That the funds used to maintain the petty cash fund referred to as "Petty Cash III" which is to provide for the advance of travel expenses attendant to protective assignments shall not exceed $4,000: *Provided further,* That, notwithstanding any other provision of law, the cost involved in providing basic training for members of the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1988 shall be paid by the Secretary of the Treasury from funds available to the Treasury Department. 1,734,000

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs, $82,163,000, to be disbursed by the Clerk of the House, to be available immediately upon enactment of this Act: *Provided,* That funds appropriated for such purpose for the fiscal year ending September 30, 1987, shall remain available until expended. 82,163,000

CAPITOL GUIDE SERVICE

For salaries and expenses of the Capitol Guide Service, $1,137,000, to be disbursed by the Secretary of the Senate: *Provided,* That none of these funds shall be used to employ more than thirty-three individuals: *Provided further,* That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service. 1,137,000

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and House of Representatives, of the statements for the first session of the One Hundredth Congress,

showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $19,000, to be paid to the persons designated by the chairmen of such committees to supervise the work. $19,000

[*Total, joint items, $94,981,000.*]

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92–484), including reception and representation expenses (not to exceed $3,000 from the Trust Fund), and rental of space in the District of Columbia, and those necessary to carry out the duties of the Director of the Office of Technology Assessment under section 1886 of the Social Security Act as amended by section 601 of the Social Security Amendments of 1983 (Public Law 98–21), and those necessary to carry out the duties of the Director of the Office of Technology Assessment under part B of title XVIII of the Social Security Act as amended by section 9305 of the Consolidated Omnibus Reconciliation Act of 1985 (Public Law 99–272), $16,901,000: *Provided,* That none of the funds in this Act shall be available for salaries or expenses of any employee of the Office of Technology Assessment in excess of 143 staff employees: *Provided further,* That no part of this appropriation shall be available for assessments or activities not initiated and approved in accordance with section 3(d) of Public Law 92–484, except that funds shall be available for the assessment required by Public Law 96–151: *Provided further,* That none of the funds in this Act shall be available for salaries or expenses of employees of the Office of Technology Assessment in connection with any reimbursable study for which funds are provided from sources other than appropriations made under this Act, or be available for any other administrative expenses incurred by the Office of Technology Assessment in carrying out such a study, except that funds shall be available for and reimbursement can be accepted for salaries or expenses of the Office of Technology Assessment in connection with the assessment required by section 101(b) of Public Law 99–190. 16,901,000

BIOMEDICAL ETHICS BOARD

SALARIES AND EXPENSES

For the Biomedical Ethics Board and the Biomedical Ethics Advisory Committee, as authorized by section 381 of the Public Health Service Act (Public Law 99–158), $100,000: *Provided,* That of the amounts appropriated under this head in the Legislative Branch Appropriations Act, 1987 (as enacted by Public Law 99–500 and Public Law 99–591), shall remain available for obligation until September 30, 1988. 100,000

150,000
(reappropriation)

[*Total, Biomedical Ethics Board, $250,000.*]

CONGRESSIONAL AWARD BOARD

CONGRESSIONAL AWARD PROGRAM

Notwithstanding any other provision of law, there is appropriated to the Congressional Award Board (established by Public Law 96–114; 2 U.S.C. 801) the sum of $189,000, to be disbursed by the Clerk of the House upon vouchers approved by the Chairman of the Congressional Award Board or another member of the Board as delegated by 189,000

the Chairman, to remain available without fiscal year limitation: *Provided,* That notwithstanding any provision of such Public Law 96–114, such sum shall be used by the Congressional Award Board in the same manner and for the same purposes, and subject to the same limitations, as are funds donated to such Board by private individuals: *Provided further,* That these funds may only be used for routine operational purposes and may not be allocated for the payment of any debt outstanding as of the date of enactment of this Act.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), $17,886,000: *Provided,* That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further,* That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 226 staff employees: *Provided further,* That any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to section 903 of Public Law 98–63. $17,886,000

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol; the Assistant Architect of the Capitol; the Executive Assistant; and other personal services; at rates of pay provided by law, $5,925,000. 5,925,000

TRAVEL

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of $10,000. *10,000 (limitation on expenses)*

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, $48,000. 48,000

[*Total, Office of the Architect of the Capitol, $5,973,000.*]

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; not to exceed $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; for expenses of attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol,

and for security installations, which are approved by the Capitol Police Board, authorized by House Concurrent Resolution 550, Ninety-second Congress, agreed to September 19, 1972, the cost limitation of which is hereby further increased by $111,000, $12,793,000, of which $360,000 shall remain available until expended. $12,793,000

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House Office Buildings, and the Capitol Power Plant, $3,404,000. 3,404,000

SENATE OFFICE BUILDINGS

For all necessary expenses for maintenance, care and operation of Senate Office Buildings; and furniture and furnishings, to be expended under the control and supervision of the Architect of the Capitol, $23,265,000, of which $3,943,000 shall remain available until expended: *Provided,* That $928,000 of funds provided under this head are for improvements to the Senate Restaurants kitchen in the Dirksen Building: *Provided further,* That no obligations can be made from this amount for improvements to the Senate Restaurants kitchen in the Dirksen Building without the prior approval of the Committee on Appropriations of the United States Senate. 23,265,000

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House Office Buildings, including the position of Superintendent of Garages as authorized by law, $30,547,000, of which $8,010,000 shall remain available until expended. 30,547,000

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; for lighting, heating, and power (including the purchase of electrical energy) for the Capitol, Senate and House Office Buildings, Congressional Library Buildings, and the grounds about the same, Botanic Garden, Senate garage, and for air conditioning refrigeration not supplied from plants in any of such buildings; for heating the Government Printing Office and Washington City Post Office and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation; $24,583,000: *Provided,* That not to exceed $1,950,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1988. 24,583,000

[*Total, Capitol buildings and grounds, $94,592,000.*]

[*Total, Architect of the Capitol (except items in title II), $100,565,000.*]

ADMINISTRATIVE PROVISIONS

SEC. 103. Notwithstanding any other provisions of law, the Architect of the Capitol is hereby authorized to (1) develop a pilot program to determine the economic feasibility and efficiency of centralizing certain maintenance functions, to assign and reassign, without increase or decrease in basic salary or wages, any person on the employment rolls of the Office of the Architect of the Capitol, for

personal services in any buildings, facilities, or grounds under his jurisdiction for which appropriations have been made and are available; (2) maintain appropriate cost and productivity records for the program; and (3) report to appropriate authorities, including the Committees on Appropriations, on the results of the program, together with recommendations for continuation or expansion of the program.

SEC. 104. The Architect of the Capitol, under the direction of the Joint Committee on the Library, is authorized to accept donations to restore and display the Statue of Freedom model.

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended by section 321 of the Legislative Reorganization Act of 1970 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $43,022,000: *Provided,* That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration or the Senate Committee on Rules and Administration: *Provided further,* That, notwithstanding any other provisions of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code. $43,022,000

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress; for printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and for printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $70,359,000: *Provided,* That funds remaining from the unexpended balances from obligations made under prior year appropriations for this account shall be available for the purposes of the printing and binding account for the same fiscal year: *Provided further,* That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture) nor for copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further,* That, to the extent that funds remain from the unexpended balance of fiscal year 1984 and fiscal year 1985 funds obligated for the printing and binding costs of publications produced for the Bicentennial of the Congress, such remaining funds shall be available for the current year printing and binding cost of publications produced for the Bicentennial. *Provided further,* That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years. 70,359,000

This title may be cited as the "Congressional Operations Appropriations Act, 1988".

[*Total, title I, Congressional Operations*:
[*New budget (obligational) authority* ..... *$1,195,253,500.*]
[*By transfer* ..... *132,000.*]
[*Limitation on expenses* ..... *10,000.*]

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $2,221,000. $2,221,000

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress, not otherwise provided for, including the Speaker's Civic Achievement Awards Program, subject to authorization, development and maintenance of the Union Catalogs; custody, care and maintenance of the Library Buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog cards and other publications of the Library; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $143,866,000, of which not more than $5,000,000 shall be derived from collections credited to this appropriation during fiscal year 1988 under the Act of June 28, 1902, as amended (2 U.S.C. 150): *Provided,* That the total amount available for obligation shall be reduced by the amount by which collections are less than the $5,000,000: *Provided further,* That, of the total amount appropriated, $4,944,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections. 143,866,000
−5,000,000 *(receipts)*

[*Net total, salaries and expenses, $138,866,000.*]

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $19,061,000, of which not more than $7,000,000 shall be derived from collections credited to this appropriation during fiscal year 1988 under 17 U.S.C. 708(c), and not more than $931,000 shall be derived from collections during fiscal year 1988 under 17 U.S.C. 111(d)(3) and 116(c)(1): *Provided,* That the total amount available for obligation shall be reduced by the amount by which collections are less than the $7,931,000: *Provided further,* That $150,000 of the unobligated balance of that part of the appropriation "Salaries and Expenses, Copyright Office" for the fiscal year 1987, for the acquisi- 19,061,000
−7,931,000 *(receipts)*
150,000 *(reappropriation)*

tion of a stand-alone data system for the processing of cable television statements and jukebox registrations, shall remain available until September 30, 1988.

[*Net total, Copyright Office, $11,280,000.*]

Books for the Blind and Physically Handicapped

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act approved March 3, 1931, as amended (2 U.S.C. 135a), $36,186,000. $36,186,000

Furniture and Furnishings

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $5,816,000, of which $4,781,000 shall be available until expended only for the purchase and supply of furniture, shelving, furnishings, and related costs necessary for the renovation and restoration of the Thomas Jefferson and John Adams Library Buildings. 5,816,000

Administrative Provisions

Sec. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed $101,390 of which $23,900 is for the Congressional Research Service, when specifically authorized by the Librarian, for expenses of attendance at meetings concerned with the function or activity for which the appropriation is made.

Sec. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15; and

(2) grants the manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

Sec. 203. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees.

Sec. 204. No funds shall be expended by the Library of Congress for the purpose of providing long-term special study facilities for profit or non-profit business enterprises until guidelines for such use are approved by the Joint Committee on the Library.

[*Total, Library of Congress (except Congressional Research Service) (net), $192,148,000.*]

ARCHITECT OF THE CAPITOL

Library Buildings and Grounds

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $6,741,000, of which $365,000 shall remain available until expended. 6,741,000

COPYRIGHT ROYALTY TRIBUNAL

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Tribunal, $662,000, of which $533,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807.

$662,000
−533,000
(receipts)

[*Net total, Copyright Royalty Tribunal, $129,000.*]

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For necessary expenses of the Office of Superintendent of Documents, including compensation of all employees in accordance with the provisions of 44 U.S.C. 305; travel expenses (not to exceed $117,000); price lists and bibliographies; repairs to buildings, elevators, and machinery; and supplying publications to the Depository Library and International Exchange Programs, $24,662,000, of which $5,500,000 representing excess receipts from the sale of publications shall be derived from the Government Printing Office revolving fund: *Provided,* That $300,000 of this appropriation shall be apportioned for use pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 1512), with the approval of the Public Printer, only to the extent necessary to provide for expenses (excluding permanent personal services) for workload increases not anticipated in the budget estimates and which cannot be provided for by normal budgetary adjustments.

24,662,000
−5,500,000
(receipts)

[*Net total, Office of Superintendent of Documents, $19,162,000.*]

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the "Government Printing Office revolving fund": *Provided,* That not to exceed $5,000 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further,* That during the current fiscal year the revolving fund shall be available for the hire of eight passenger motor vehicles: *Provided further,* That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further,* That the revolving fund shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS–18: *Provided further,* That the revolving fund shall be available to acquire needed land, located in Northwest D.C., which is adjacent to the present Government Printing Office, and is bounded by Massachusetts Avenue and the southern property line of the Government Printing Office, between North Capitol Street and First Street. The land to be purchased is identified as Parcels 45–D, 45–E, 45–F, and 47–A in

Square 625, and includes the alleys adjacent to these parcels, and G Street, N.W. from North Capitol Street to First Street: *Provided further,* That the revolving fund and the funds provided under the paragraph entitled "Office of Superintendent of Documents, Salaries and expenses" together may not be available for the full-time equivalent employment of more than 5,237 workyears.

ADMINISTRATIVE PROVISION

SEC. 205. Funds authorized to be expended by the Government Printing Office for fiscal year 1988, not to exceed $55,000, shall be available without regard to the 25 per centum limitation of section 322 of the Economy Act of June 30, 1932, as amended, for the repair, alteration, and improvement of rented premises.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not to exceed $5,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8), respectively); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b)); $329,847,000: *Provided,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including but not limited to the salary of the Executive Director and secretarial support: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences: *Provided further,* That this appropriation shall be available to finance a portion, not to exceed $50,000, of the costs of the Governmental Accounting Standards Board: *Provided further,* That $50,000 of this appropriation shall be available for the expenses of planning the triennial Congress of the International Organization of Supreme Audit Institutions (INTOSAI) to be hosted

$329,847,000

by the United States General Accounting Office in Washington, D.C., in 1992, to the extent that such expenses cannot be met from the trust authorized below: *Provided further,* That the General Accounting Office is authorized to solicit and accept contributions (including contributions from INTOSAI), to be held in trust, which shall be available without fiscal year limitation for the planning, administration, and such other expenses as the Comptroller General deems necessary to act as the sponsor of the aforementioned triennial Congress of INTOSAI. Monies in the trust not to exceed $10,000 shall be available upon the request of the Comptroller General to be expended for the purposes of the trust.

[*Total, title II, Other Agencies (net), $550,248,000.*]

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration or for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 303. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: *Provided,* That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and House, and clerk hire for Senators and Members shall be the permanent law with respect thereto.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. (a) The Architect of the Capitol, in consultation with the heads of the agencies of the legislative branch, shall develop an overall plan for satisfying the telecommunications requirements of such agencies, using a common system architecture for maximum interconnection capability and engineering compatibility. The plan shall be subject to joint approval by the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, and, upon approval, shall be communicated to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. No part of any appropriation in this Act or any other Act shall be used for acquisition of any new or expanded telecommunications system for an agency of the legislative branch, unless, as determined by the Architect of the Capitol, the acquisition is in conformance with the plan, as approved.

(b) As used in this section—

(1) the term "agency of the legislative branch" means, the office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office; and

(2) the term "telecommunications system" means an electronic system for voice, data, or image communication, including any associated cable and switching equipment.

SEC. 306. Hereafter, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with each appropriation account in this Act, except that the accounts under the general heading "House of Representatives" shall be considered one appropriation account and one "program, project, and activity", and the accounts under the general heading "Senate" shall be considered one appropriation account and one "program, project, and activity".

SEC. 307. (a) Notwithstanding section 105 of title 4, United States Code, or any other provision of law, no person shall be required to pay, collect, or account for any sales, use, or similar excise tax, or any personal property tax, with respect to an essential support activity or function conducted by a nongovernmental person in the Capitol, the House Office Buildings, the Senate Office Buildings, the Capitol Grounds, or any other location under the control of the Congress in the District of Columbia.

(b) As used in this section—

(1) the term "essential support activity or function" means a support activity or function so designated by the Committee on House Administration of the House of Representatives or the Committee on Rules and Administration of the Senate, acting jointly or separately, as appropriate;

(2) the term "personal property tax" means a tax of a State, a subdivision of a State, or any other authority of a State, that is levied on, levied with respect to, or measured by, the value of personal property;

(3) the term "sales, use, or similar excise tax" means a tax of a State, a subdivision of a State, or any other authority of a State, that is levied on, levied with respect to, or measured by, sales, receipts from sales, or purchases, or by storage, possession, or use of personal property; and

(4) the term "State" means a State of the United States, the District of Columbia, or a territory or possession of the United States.

(c) This section shall apply to any sale, receipt, purchase, storage, possession, use, or valuation taking place after December 31, 1986.

SEC. 308. (a) Notwithstanding any other provision of law, the pay for positions described in subsection (b) shall be the amounts specified for such positions in appropriations Acts.

(b) The positions referred to in subsection (a) are: (1) the two positions of assistant referred to in the proviso in the first undesignated paragraph under the center subheadings "OFFICE OF THE ARCHITECT OF THE CAPITOL" and "SALARIES" in the Legislative Branch Appropriation Act, 1971 (40 U.S.C. 164a), and (2) the seven positions provided for in the third and fourth undesignated paragraphs under the center subheadings "OFFICE OF THE ARCHITECT OF THE CAPITOL" and "SALARIES" in the Legislative Branch Appropriation Act, 1960 (40 U.S.C. 166b-3).

(c) The pay for each position described in subsection (b) shall be the pay payable for such position with respect to the last pay period before this section takes effect, subject to any applicable adjustment during fiscal year 1988 under, or by reference to any applicable adjustment during fiscal year 1988 under, subchapter I of chapter 53 of title 5, United States Code.

(d) This section shall apply in fiscal years beginning after September 30, 1987, with respect to pay periods beginning after the date of the enactment of this Act.

SEC. 309. (a) None of the funds appropriated for fiscal year 1988 by this Act or any other law may be obligated or expended by any entity of the executive branch for the procurement from commercial sources of any printing related to the production of Government publications (including forms), unless such procurement is by or through the Government Printing Office.

(b) Subsection (a) does not apply to (1) individual printing orders costing not more than $1,000, if the work is not of a continuing or repetitive nature, (2) printing for the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or (3) printing from commercial sources that is specifically authorized by law or is of a kind that has not been routinely procured by or through the Government Printing Office.

(c) As used in this section, the term "printing" means the process of composition, platemaking, presswork, binding, and microform, and the end items of such processes.

SEC. 310. The provision of law which was derived from section 80 of the Revised Statutes and which currently is carried as the second sentence of section 131 of title 2, United States Code, is hereby repealed.

SEC. 311. (a) The first sentence of section 4(a) of Public Law 91-656 (2 U.S.C. 60a-1) is amended by striking out the period at the end and inserting "and adjust the rates of such personnel by such amounts as necessary to restore the same pay relationships that existed on December 31, 1986, between personnel and Senators and between positions.".

(b) Section 4(d) of such public law is amended by striking out the period at the end and inserting ", except in cases in which it is necessary to restore and maintain the same pay relationships that existed on December 31, 1986, between personnel and Senators and between positions.".

(c) Notwithstanding any other provision of this Act or any other provision of law, subsections (a) and (b) of this section shall be effective in the case of pay orders issued by the President pro tempore of the Senate on or after January 1, 1988.

(d) Notwithstanding any other provision of this Act, or any other provision of law, rule, or regulation, hereafter each time the President pro tempore of the Senate exercises any authority pursuant to any of the amendments made by this section with respect to rates of pay or any other matter relating to personnel whose pay is disbursed by the Secretary of the Senate, the Speaker of the House of Representatives may, with respect to personnel whose pay is disbursed by the Clerk of the House of Representatives, exercise the same authority to the extent necessary to ensure parity of treatment between personnel of the respective Houses of Congress having comparable duties and responsibilities.

This Act may be cited as the "Legislative Branch Appropriations Act, 1988".

[*Total, Legislative Branch Appropriations, 1988:*
[*New budget (obligational) authority* ..... *$1,745,501,500.*]
[*Title I, Congressional Operations* ..... *1,195,253,500.*]
[*Reappropriation* ..... *150,000.*]
[*By transfer* ..... *132,000.*]
[*Limitation on expenses* ..... *10,000.*]
[*Title II, Other Agencies* ..... *550,248,000.*]
[*Reappropriation* ..... *150,000.*]

(j) Such amounts as may be necessary for programs, projects or activities provided for in the Military Construction Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows: *(Military Construction Appropriations Act, 1988)*

AN ACT

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1988, and for other purposes.

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander-in-Chief, $977,590,000, to remain available until September 30, 1992: *Provided,* That of this amount, not to exceed $120,120,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Army" under Public Law 98-473, $6,800,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Army" under Public Law 99-173, $28,000,000 is hereby rescinded.

[*Subtotal, military construction, Army (net), $942,790,000.*]

$977,590,000

−6,800,000 *(rescission)*

−28,000,000 *(rescission)*

MILITARY CONSTRUCTION, NAVY

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,417,311,000, to remain available until September 30, 1992: *Provided,* That of this amount, not to exceed $130,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Navy" under Public Law 98-473, $6,800,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Navy" under Public Law 99-173, $19,400,000 is hereby rescinded.

[*Subtotal, military construction, Navy (net), $1,391,111,000.*]

1,417,311,000

−6,800,000 *(rescission)*

−19,400,000 *(rescission)*

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $1,241,254,000, to remain available until September 30, 1992: *Provided,* That of this amount, not to exceed $115,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense deter-

1,241,254,000

mines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Air Force" under Public Law 98-473, $6,300,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Air Force" under Public Law 99-173, $18,500,000 is hereby rescinded: *Provided further,* That none of the funds appropriated for planning, design, or construction of military facilities or family housing may be used to support the relocation of the 401st Tactical Fighter Wing from Spain to another country.

[*Subtotal, military construction, Air Force (net), $1,216,454,000.*]

	−$6,300,000 *(rescission)*
	−18,500,000 *(rescission)*

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $558,446,000, to remain available until September 30, 1992: *Provided,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further,* That of the amount appropriated, not to exceed $55,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 98-473, $1,900,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 99-173, $5,300,000 is hereby rescinded.

[*Subtotal, military construction, Defense Agencies (net), $551,246,000.*]

558,446,000	
	−1,900,000 *(rescission)*
	−5,300,000 *(rescission)*

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

(INCLUDING RESCISSION)

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $381,000,000, to remain available until expended: *Provided,* That of the funds appropriated for "North Atlantic Treaty Organization Infrastructure" under Public Law 99-173, $8,000,000 is hereby rescinded.

[*Subtotal, NATO Infrastructure (net), $373,000,000.*]

381,000,000	
	−8,000,000 *(rescission)*

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

(INCLUDING RESCISSION)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $184,405,000, to remain available until September 30, 1992: *Provided,* That of the funds appropriated for "Military Construction, Army National Guard" under Public Law 99-173, $2,500,000 is hereby rescinded.	$184,405,000 −2,500,000 *(rescission)*
[*Subtotal, military construction, Army National Guard (net), $181,905,000.*]	

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

(INCLUDING RESCISSIONS)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $151,291,000, to remain available until September 30, 1992: *Provided,* That of the funds appropriated for "Military Construction, Air National Guard" under Public Law 98-473, $200,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Air National Guard" under Public Law 99-173, $3,300,000 is hereby rescinded.	151,291,000 −200,000 *(rescission)* −3,300,000 *(rescission)*
[*Subtotal, military construction, Air National Guard (net), $147,791,000.*]	

MILITARY CONSTRUCTION, ARMY RESERVE

(INCLUDING RESCISSION)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $95,100,000, to remain available until September 30, 1992: *Provided,* That of the funds appropriated for "Military Construction, Army Reserve" under Public Law 99-173, $1,800,000 is hereby rescinded.	95,100,000 −1,800,000 *(rescission)*
[*Subtotal, military construction, Army Reserve (net), $93,300,000.*]	

MILITARY CONSTRUCTION, NAVAL RESERVE

(INCLUDING RESCISSION)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $73,737,000, to remain available until September 30, 1992: *Provided,* That of the funds appropriated for "Military Construction, Naval Reserve" under Public Law 99-173, $1,200,000 is hereby rescinded.	73,737,000 −1,200,000 *(rescission)*
[*Subtotal, military construction, Naval Reserve (net), $72,537,000.*]	

MILITARY CONSTRUCTION, AIR FORCE RESERVE

(INCLUDING RESCISSIONS)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $79,300,000, to remain available until September 30, 1992: *Provided,* That of the funds appropriated for "Military Construction, Air Force Reserve" under Public Law 98-473, $200,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Air Force Reserve" under Public Law 99-173, $1,800,000 is hereby rescinded.	$79,300,000 −200,000 *(rescission)* −1,800,000 *(rescission)*
[*Subtotal, military construction, Air Force Reserve (net), $77,300,000.*]	
[*Total, military construction:*	
[*New budget (obligational) authority (net)..... $5,047,434,000.*]	
[*Appropriations..... 5,159,434,000.*]	
[*Rescissions..... −112,000,000.*]	

FAMILY HOUSING, ARMY

(INCLUDING RESCISSIONS)

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $305,890,000; for Operation and maintenance, and for debt payment, $1,255,121,000; in all $1,561,011,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1992: *Provided further,* That of the funds appropriated for "Family Housing, Army" under Public Law 98-473, $900,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Family Housing, Army" under Public Law 99-173, $19,400,000 is hereby rescinded.	1,561,011,000 −2,746,000 *(debt reduction)* −900,000 *(rescission)* −19,400,000 *(rescission)*
[*Subtotal, family housing, Army (net), $1,537,965,000.*]	

FAMILY HOUSING, NAVY AND MARINE CORPS

(INCLUDING RESCISSIONS)

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $237,914,000; for Operation and maintenance, and for debt payment, $530,028,000; in all $767,942,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1992: *Provided further,* That of the funds appropriated for "Family Housing, Navy and Marine Corps" under Public Law 98-473, $400,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Family Housing, Navy and Marine Corps" under Public Law 99-173, $8,800,000 is hereby rescinded.	767,942,000 −1,801,000 *(debt reduction)* −400,000 *(rescission)* −8,800,000 *(rescission)*
[*Subtotal, family housing, Navy and Marine Corps (net), $756,941,000.*]	

FAMILY HOUSING, AIR FORCE

(INCLUDING RESCISSIONS)

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $152,310,000; for Operation and maintenance, and for debt payment, $691,983,000; in all $844,293,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1992: *Provided further,* That of the funds appropriated for "Family Housing, Air Force" under Public Law 98-473, $2,400,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Family Housing, Air Force" under Public Law 99-173, $12,300,000 is hereby rescinded. $844,293,000
−1,433,000 *(debt reduction)*
−2,400,000 *(rescission)*
−12,300,000 *(rescission)*

[*Subtotal, family housing, Air Force (net), $828,160,000.*]

FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $1,186,000; for Operation and maintenance, $19,514,000; in all $20,700,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1992. 20,700,000

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $2,800,000. 2,800,000

[*Total, family housing:*

[*New budget (obligational) authority (net)*.....	*$3,146,566,000.*]
[*Appropriations*.....	*3,196,746,000.*]
[*Rescissions*.....	*−44,200,000.*]
[*Portion applied to debt reduction*	*−5,980,000.*]

FOREIGN CURRENCY FLUCTUATIONS, CONSTRUCTION, DEFENSE

For foreign currency fluctuations, construction, Defense, $85,000,000, to remain available until expended. 85,000,000

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except; (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 107. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. No part of the funds appropriated in this Act for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided,* That the low responsive and responsible bid of a United States contractor does not exceed the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 110. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 111. No part of the funds appropriated in this Act may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

SEC. 112. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 113. None of the funds in this Act may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 114. None of the funds appropriated in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 115. None of the funds appropriated in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided,* That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid

of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 116. The Secretary of Defense is to inform the Committees on Appropriations and Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 117. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1988, shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 118. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 119. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the first session of the One Hundredth Congress.

SEC. 120. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with a report by February 15, 1988, containing details of the specific actions proposed to be taken by the Department of Defense during fiscal year 1988 to encourage other member nations of the North Atlantic Treaty Organization and Japan to assume a greater share of the common defense burden of such nations and the United States.

SEC. 121. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 122. Notwithstanding any other provision of law, the Secretary of the Air Force is required to maintain legislative liaison to the House and Senate Appropriations Subcommittees on Military Construction and budgetary and fiscal management of the Military Construction and Military Family Housing appropriations in a manner identical to the method employed as of September 30, 1986.

SEC. 123. Notwithstanding any other provision of law, including the certification requirements provided in section 210 of title 23, United States Code, the Secretary of Defense is directed to provide for the design of access roads for the New Cumberland Army Depot, Pennsylvania and for the Tobyhanna Army Depot, Pennsylvania, as well as design of replacement bridges at Broad Creek and at Gales Creek on North Carolina Highway 24, within funds provided in this Act.

SEC. 124. None of the funds appropriated in this Act for planning and design activities may be used to initiate design of the Pentagon Annex.

SEC. 125. None of the funds appropriated by this or any other Act for the Department of Defense may be obligated or expended for the National Test Bed Components of the National Test Facility at Falcon Air Station, Colorado, until the Strategic Defense Initiative Organization (SDIO) has begun the development of the Phase One Strategic Defense System (SDS) Architecture and the Follow-on Strategic Defense System Architecture and the Committees on Appropriations of the Senate and the House of Representatives have thereafter received an interim report from SDIO on the Phase One System Architecture and follow-on architecture that the National Test Facility will be testing and evaluating; and until SDIO has provided a detailed report to the Committees on Appropriations of the Senate and the House of Representatives on the capability of the National Test Facility and the other components of the National Test Bed to produce the simulation, evaluation, and demonstration data needed to determine whether a proposed ballistic missile defense system satisfies the criteria of technical feasibility, cost-effectiveness at the margin, and survivability: *Provided,* That, none of the funds appropriated by this or any other Act for the National Test Facility or any other components of the National Test Bed may be used to provide any operational battle management, command, control or communications capabilities for an early deployment of a ballistic missile defense system: *Provided further,* That, the goal of the National Test Facility and other components of the National Test Bed shall be to simulate, evaluate, and demonstrate architectures and technologies that are technically feasible, cost effective at the margin, and survivable.

SEC. 126. None of the funds appropriated in this Act may be obligated or expended for the purpose of transferring any equipment, operation, or personnel from the Edgewood Arsenal, Maryland, to any other facility during fiscal year 1988.

SEC. 127. In addition to the purposes for which it is now available, the property account established by section 12(b) of the Act of January 2, 1976, as amended (43 U.S.C. 1611 note) shall be available hereafter for purposes involving any public sale of property by any agency of the United States, including the Department of Defense, or any element thereof.

SEC. 128. Of the amounts appropriated by this Act for "Family Housing, Navy and Marine Corps", not to exceed $150,000 shall be available to liquidate obligations incurred for debt payment during fiscal year 1986.

SEC. 129. (a) Subject to subsections (b) through (d), the Secretary of the Army is authorized to convey to the city of New York, New York, all right, title, and interest of the United States in and to its 7 acre parcel of land in the Brooklyn Navy Yard, Brooklyn, New York.

(b) In consideration for the conveyance by the Secretary under subsection (a), the city of New York shall pay to the United States the fair market value, as determined by the Secretary, of the property to be conveyed.

(c) The Secretary shall include in the deed of conveyance a condition that the United States may reenter and use the property without compensation in the event of war or other national emergency declared by the President or Congress.

(d) The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 130. (a) Subject to subsections (b) through (f), the Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the State of New Jersey (hereinafter in this section referred to as the "State"), and the city of Jersey City, New Jersey (hereinafter in this section referred to as the "City"), all

right, title, and interest of the United States in and to a tract of land located in Jersey City, New Jersey, consisting of approximately 40 acres of unimproved real property, comprising a portion of the United States Army Reserve Center, Caven Point, New Jersey.

(b)(1) The conveyance authorized by subsection (a) shall be subject to the following conditions—

(A) that the City convey to the United States a tract of unimproved real property consisting of approximately 9 acres, located immediately adjacent to the Caven Point Army Reserve Center's northeast boundary;

(B) that the State and City stabilize approximately 30 acres of real property west of the proposed highway; and

(C) that the State and City remove and store the existing railroad track.

(2) If the fair market value (as determined by the Secretary) of the real property conveyed by the United States to the State and City under subsection (a) exceeds the sum of fair market values (as determined by the Secretary) of the real property conveyed by the City to the United States and the improvements made by the State and the City, the State and City shall pay the amount of the difference to the Secretary.

(c) The exact acreages and legal description of properties to be conveyed under subsections (a) and (b) shall be determined by surveys that are satisfactory to the Secretary. The cost of any surveys shall be borne by the State and City.

(d) The Secretary may require such additional terms and conditions as the Secretary considers appropriate to carry out the provisions of this section and to protect the interests of the United States.

(e)(1) The Secretary may use any funds paid to the Secretary by the State and City in accordance with subsection (b)(2) to repair, expand, and improve, or replace the United States Army Reserve Center facilities at Caven Point, New Jersey, whichever is most cost-effective.

(2) The Secretary shall deposit any remaining funds into miscellaneous receipts of the Treasury.

(f) This section shall be implemented in accordance with an agreement to be entered into by the Secretary, the State, and the City.

SEC. 131. (a) AUTHORITY TO CONVEY.—Subject to subsections (b) through (f), the Secretary of the Navy may convey to the City of San Diego, California, all right, title, and interest of the United States in and to three parcels of real property (including improvements thereon) comprising approximately 680 acres located in the Mission Trails Regional Park area of the City of San Diego, California.

(b) CONSIDERATION.—In consideration for the conveyance authorized by subsection (a), the City of San Diego shall pay to the United States the fair market value, as determined by the Secretary, of the property to be conveyed by the United States.

(c) USE OF FUNDS.—(1) The Secretary may use proceeds from the sale of property under this section solely for the purpose of acquiring suitable sites for military family housing or constructing military family housing units, or both, in the San Diego area.

(2) Any funds received by the Secretary under this section and not used for the acquisition of a site for military family housing or the construction of military family housing units within 60 months after the receipt of such funds shall be deposited into the general fund of the Treasury.

(d) LEGAL DESCRIPTION OF LAND.—The exact acreages and legal description of the property to be conveyed under this section shall be determined by surveys satisfactory to the Secretary. The cost of any such survey shall be borne by the city.

(e) NOTIFICATION.—The Secretary may not enter into any contract under this section to—

(1) convey any property;

(2) acquire a site for military family housing; or

(3) construct housing,

until after the 21-day period beginning on the date on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report of the details of the contract.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interest of the United States.

(g) AMENDMENTS.—Section 833 of the Military Construction Authorization Act, 1986 (Public Law 99-167), is amended—

(1) in subsection (d)(1), by inserting the following before the period: "or constructing military family housing, or both";

(2) in subsection (d)(2), by striking out "within 30 months" and inserting in lieu thereof "or constructing military family housing within 60 months"; and

(3) by adding at the end the following new subsection:

"(g) NOTIFICATION.—After the date of the enactment of this subsection, the Secretary may not enter into any contract under this section to—

"(1) convey any property;

"(2) acquire a site for military family housing; or

"(3) construct housing,

until after the 21-day period beginning on the date on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report of the details of the contract.".

(h) LIMITATION.—The total number of military family housing units constructed under this section and under section 833 of the Military Construction Authorization Act, 1986 (Public Law 99-167) shall not exceed 300 units.

SEC. 132. (a) AUTHORITY TO EXCHANGE REAL PROPERTY.—Subject to subsections (b) through (d), the Secretary of the Army may transfer to the City of Copperas Cove, Texas, approximately 112 acres of real property (including improvements thereon) at Fort Hood, Texas, in exchange for approximately 600 acres of real property (including improvements thereon) which are of at least equal value to the property being transferred by the Secretary.

(b) DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the City.

(c) REPORT.—The Secretary may not transfer any property under this section until after the 21-day period beginning on the date on which the Secretary transmits a report of the details of such transfer to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States in any transfer made under this section.

SEC. 133. (a) AUTHORITY TO CONVEY.—Subject to subsection (b), the Secretaries of the Army and Navy may convey, without consideration, to the State of North Carolina all right, title, and interest of the United States in and to—

(1) approximately 51 acres of real property, with improvements thereon, located in the FARTC area of Ft. Bragg, North Carolina; and

(2) approximately 50 acres of real property, with improvements thereon, located in the Montford Point/Camp Johnson area of Camp Lejeune, North Carolina.

(b) CONDITIONS.—(1) The conveyances authorized by subsection (a) shall be subject to the condition that the properties conveyed by the Secretaries be used by the State to establish State veterans' cemeteries.

(2) If either of the properties conveyed pursuant to subsection (a) is not used for the purpose described in paragraph (1), all right, title, and interest in and to such property shall revert at no cost to the United States, which shall have the right of immediate entry thereon.

(c) LEGAL DESCRIPTION OF LAND.—The exact acreage and legal description of the properties to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretaries. The cost of such surveys shall be borne by the State.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretaries may require such other terms and conditions with respect to the conveyances authorized by this section as the Secretaries consider appropriate to protect the interests of the United States.

SEC. 134. Notwithstanding any other provision of this or of any other law, any limitation on the obligation or expenditure of funds appropriated for fiscal year 1987 for military construction for homeporting at Everett, Washington, shall not apply unless such limitation was expressly stated in a law which was enacted on or before September 30, 1987.

SEC. 135. (a) In addition to other military construction projects and land acquisition authorized by any other law for fiscal year 1988—

(1) the Secretary of the Navy may acquire real property and may increase military construction projects at Naval Air Station, Adak, Alaska, in the amount of $20,000,000;

(2) the Secretary of the Air Force may acquire real property and may carry out military construction projects at Hanscom Air Force Base, Massachusetts, in the amount of $15,000,000; and

(3) the Secretary of Defense may acquire real property and may carry out military construction projects at Falcon Air Force Station, Colorado, in the amount of $35,000,000.

(b) Funds are hereby authorized to be appropriated for fiscal year 1988 for the projects and land acquisitions described in subsection (a) of this section. The amount authorized for each such project and land acquisition is the amount listed for each in paragraphs (1), (2), and (3), respectively, of such subsection.

This Act may be cited as the "Military Construction Appropriations Act, 1988".

[*Total, Military Construction Appropriations, 1988:*

[*New budget (obligational) authority (net)*..... *$8,279,000,000.*]

[*Appropriations*..... *8,441,180,000.*]

[*Rescissions*..... *−156,200,000.*]

[*Portion applied to debt reduction*..... *−5,980,000.*]

(k) Such amounts as may be necessary for programs, projects, or activities provided for in the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

(Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988)

AN ACT

Making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, including the direct supervision of the Soil Conservation Service and the Forest Service, and not to exceed $50,000 for employment under 5 U.S.C. 3109, $1,466,000: *Provided,* That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary. $1,466,000

INVESTIGATION OF LARGE PAYMENTS

To enable the Secretary of Agriculture to investigate large payments made under the provisions of the Food Security Act of 1985, and other laws, as to accuracy and legality and to submit a detailed report on such payments to the appropriate committees of the Congress, $100,000. 100,000

OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Office of the Deputy Secretary of Agriculture, including not to exceed $25,000 for employment under 5 U.S.C. 3109, $321,000: *Provided,* That not to exceed $3,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Deputy Secretary. 321,000

OFFICE OF THE ASSISTANT SECRETARY FOR SPECIAL SERVICES

For necessary salaries and expenses to continue the Office of the Assistant Secretary for purposes of providing special services to the Department, $416,000: *Provided,* That none of these funds shall be available for the supervision of Natural Resources and Environment activities, the Soil Conservation Service, or the Forest Service. 416,000

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $498,000. 498,000

RENTAL PAYMENTS (USDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Department of Agriculture which are included in this Act, $49,665,000, of which $3,000,000 shall be retained by the Department of Agriculture for non-recurring repairs as determined by the Department of Agriculture: *Provided,* That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or 49,665,000

may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 10 per centum of the funds made available for space rental and related costs to or from this account.

BUILDING OPERATIONS AND MAINTENANCE

For the operation, maintenance, and repair of Agriculture buildings pursuant to the delegation of authority from the Administrator of General Services authorized by 40 U.S.C. 486, $20,024,000, of which $3,245,000 is for one-time purchase of systems furniture. $20,024,000

ADVISORY COMMITTEES (USDA)

For necessary expenses for activities of Advisory Committees of the Department of Agriculture which are included in this Act, $1,308,000: *Provided,* That no other funds appropriated to the Department of Agriculture in this Act shall be available to the Department of Agriculture for support of activities of Advisory Committees. 1,308,000

HAZARDOUS WASTE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, except for expenses of the Commodity Credit Corporation, to comply with the requirement of section 107g of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607g, and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961, $2,000,000, to remain available until expended: *Provided,* That appropriations and funds available herein to the Department of Agriculture for hazardous waste management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands. 2,000,000

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Budget and Program Analysis, $4,252,000; for Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officer, $20,642,000 and in addition, for payment of the USDA share of the National Communications System, $110,000; making a total of $25,004,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration and emergency preparedness of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided,* That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558. 25,004,000

WORKING CAPITAL FUND

An amount of $5,708,000 is hereby appropriated to the Departmental Working Capital Fund to increase the Government's equity 5,708,000

in this fund and to provide for the purchase of automated data processing, data communication, and other related equipment necessary for the provision of Departmental centralized services to the agencies.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AND PUBLIC AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental and Public Affairs to carry out the programs funded in this Act, $347,000. $347,000

PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, $7,700,000, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins and not fewer than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided,* That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225). 7,700,000

CONGRESSIONAL RELATIONS

For necessary expenses for liaison with the Congress on legislative matters, $497,000. 497,000

INTERGOVERNMENTAL AFFAIRS

For necessary expenses for programs involving intergovernmental affairs and liaison within the executive branch, $476,000. 476,000

[*Total, Office of Governmental and Public Affairs, $8,673,000.*]

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), $48,795,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978 (Public Law 95–452), and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $95,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and section 1337 of Public Law 97–98. 48,795,000

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $18,734,000. 18,734,000

OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $484,000. 484,000

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analyses of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $48,186,000; of which not less than $200,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: *Provided,* That not less than $350,000 of the funds contained in this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and the consumer: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225): *Provided further,* That not less than $145,000 of the funds contained in this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis. $48,186,000

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $61,176,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109. 61,176,000

WORLD AGRICULTURAL OUTLOOK BOARD

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $1,730,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225). 1,730,000

OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $386,000. 386,000

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $538,884,000: *Provided,* That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That funds appropriated herein can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs: *Provided further,* That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further,* That uniform allowances for each uniformed employee of the Agricultural Research Service shall not be in excess of $400 annually: *Provided further,* That of the appropriations hereunder not less than $10,526,600 shall be available to conduct marketing research: *Provided further,* That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $150,000, except for headhouses connecting greenhouses which shall each be limited to $500,000, and except for ten buildings to be constructed or improved at a cost not to exceed $275,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $150,000 whichever is greater: *Provided further,* That the limitations on alterations contained in this Act shall not apply to a total of $250,000 for facilities at Beltsville, Maryland: *Provided further,* That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further,* That the limitation on purchase of land shall not apply to the purchase of land at Fresno, California, or to the purchase of land at the Mahantango Research Watershed, Pennsylvania: *Provided further,* That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives. $538,884,000

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $1,800,000. 1,800,000

BUILDINGS AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension and teaching programs of the Department of Agriculture, where not otherwise provided, $57,815,000, of which $7,500,000 shall not be obligated prior to fiscal year 1989: *Provided,* That these funds may be transferred to such other accounts in this Act as may be appro- 57,815,000

priate to carry out these purposes: *Provided further,* That facilities to house Bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94-129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities.

[*Total, Agricultural Research Service, $598,499,000.*]

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $155,545,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended by the Act approved August 11, 1955 (7 U.S.C. 361a-361i), and further amended by Public Law 92-318 approved June 23, 1972, and further amended by Public Law 93-471 approved October 26, 1974, including administration by the United States Department of Agriculture, and penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $17,500,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a—582a-7), as amended by Public Law 92-318 approved June 23, 1972, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $23,333,000 for payments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95-113), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee University; $31,185,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $42,372,000 for competitive research grants, including administrative expenses; $5,476,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95-113, including administrative expenses; $675,000 for supplemental and alternative crops and products as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d); $4,918,000 for grants for research and construction of facilities to conduct research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178) and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; $4,754,000 for higher education grants under section 1417(a) of Public Law 95-113, as amended (7 U.S.C. 3152(a)); $3,500,000 for grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 and other Acts; $3,827,000 for grants to States for the establishment and operation of international trade development centers, as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3292); $3,900,000 for low-input agriculture as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 4701-4710); $2,100,000 for other grants as authorized by section 1472 of the Food and Agriculture Act of 1977 (7 U.S.C. 3318); and $4,094,000 for necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department, administration of payments to State agricultural experiment stations, funds for employment pursuant to

the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; in all, $303,654,000. $303,654,000

EXTENSION SERVICE

(INCLUDING TRANSFERS OF FUNDS)

Payments to States, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11 1955, the Act of October 5, 1962 (7 U.S.C. 341–349), section 506 of the Act of June 23, 1972, and the Act of September 29, 1977 (7 U.S.C. 341–349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), to be distributed under sections 3(b) and 3(c) of said Act, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $241,594,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $58,635,000, of which $39,627,000 shall be derived by transfer from the appropriation "Food Stamp Program" and merged with this appropriation; payments for the urban gardening program under section 3(d) of the Act, $3,329,000; payments for the pest management program under section 3(d) of the Act, $7,164,000; payments for the farm safety program under section 3(d) of the Act, $970,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $1,633,000; grants to upgrade 1890 land-grant college extension facilities as authorized by section 1416 of Public Law 99–198, $9,508,000, to remain available until expended; payments for an integrated reproductive management program under section 3(d) of the Act, $47,000; payments for the rural development centers under section 3(d) of the Act, $903,000; payments for extension work under section 209(c) of Public Law 93–471, $935,000; payments for a financial management assistance program under section 3(d) of the Act, $1,427,000; payments for carrying out the provisions of the Renewable Resource Extension Act of 1978, $2,765,000; for special grants for financially stressed farmers and dislocated farmers as authorized by section 1440 of Public Law 99–198, $3,350,000; and payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–326, 328) and Tuskegee University, $18,291,000; in all, $350,551,000, of which not less than $79,400,000 is for Home Economics: *Provided,* That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year. *39,627,000 (by transfer)* 310,924,000

Federal administration and coordination: For administration of the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962, section 506 of the Act of June 23, 1972, section 209(d) of Public Law 93–471, and the Act of September 29, 1977 (7 U.S.C. 341–349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $7,412,000, of which not less than $2,300,000 is for Home Economics. 7,412,000

[*Total, Extension Service, $318,336,000.*]

National Agricultural Library

For necessary expenses of the National Agricultural Library, $12,194,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $575,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements: *Provided further,* That $370,000 shall be available for a grant pursuant to section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3318). $12,194,000

Office of the Assistant Secretary for Marketing and Inspection Services

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Federal Grain Inspection Service, Agricultural Cooperative Service, Agricultural Marketing Service (including Office of Transportation) and Packers and Stockyards Administration, $363,000. 363,000

Animal and Plant Health Inspection Service

salaries and expenses

(including transfers of funds)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b–c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426–426b); and to protect the environment, as authorized by law, $329,330,000; of which $4,500,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided,* That $1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed two, of which one shall be for replacement only: *Provided further,* That uniform allowances for each uniformed employee of the Animal and Plant Health Inspection Service shall not be in excess of $400 annually: *Provided further,* That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious diseases or pests of animals, poultry, or plants, and for expenses in accordance 329,330,000

with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts: *Provided further,* That hereafter, the Secretary of Agriculture is authorized, except for urban rodent control, to conduct activities and to enter into agreements with States, local jurisdictions, individuals, and public and private agencies, organizations, and institutions in the control of nuisance mammals and birds and those mammal and bird species that are reservoirs for zoonotic diseases, and to deposit any money collected under any such agreement into the appropriation accounts that incur the costs to be available immediately and to remain available until expended for Animal Damage Control activities.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $2,246,000. $2,246,000

[*Total, Animal and Plant Health Inspection Service, $331,576,000.*]

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $392,009,000: *Provided,* That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109 *Provided further,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building. 392,009,000

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $7,020,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further,* That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act. 7,020,000

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $36,856,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services. *$36,856,000 (limitation on administrative expenses)*

AGRICULTURAL COOPERATIVE SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451–457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $4,611,000; of which $99,000 shall be available for a field office in Hawaii: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109. 4,611,000

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $70,000 for employment under 5 U.S.C. 3109, $32,409,000; of which not less than $1,591,000 shall be available for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building. 32,409,000

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $30,628,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses. *30,628,000 (limitation on administrative expenses)*

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $7,601,000 for formulation and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961. *7,601,000 (by transfer)*

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $942,000. $942,000

[*Total, Agricultural Marketing Service, $33,351,000.*]

OFFICE OF TRANSPORTATION

For necessary expenses to carry on services related to agricultural transportation programs as authorized by law; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $2,397,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building. 2,397,000

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $9,402,000. 9,402,000

[*Total, Production, Processing and Marketing, $2,308,433,000.*]

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

For necessary salaries and expenses for the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Office of International Cooperation and Development, Foreign Agricultural Service, and the Commodity Credit Corporation, $524,000. 524,000

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301–1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g–590o, 590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301–1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C.

2101); sections 202(c) and 205 of title II of the Colorado River Basin Salinity Control Act of 1974, as amended (43 U.S.C. 1592(c), 1595); sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241–273); and laws pertaining to the Commodity Credit Corporation, not to exceed $565,000,000, to be derived by transfer from the Commodity Credit Corporation fund: *Provided,* That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: *Provided further,* That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That no part of the funds made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations. *$565,000,000 (by transfer)*

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $95,000: *Provided,* That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government: *Provided,* That this amount shall be transferred to the Commodity Credit Corporation: *Provided further,* That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursements. 95,000

[*Total, Farm Income Stabilization, $619,000.*]

CORPORATIONS

The following corporations and agencies are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), $200,000,000: *Provided,* That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i). $200,000,000

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $228,523,000. 228,523,000

[*Total, Federal Crop Insurance Corporation, $428,523,000.*]

COMMODITY CREDIT CORPORATION

OPERATING EXPENSES

Notwithstanding any other provision of law, for operating expenses as authorized by the Charter of the Commodity Credit Corporation (15 U.S.C. 714) to be available for financing the Corporation's programs and activities only as follows:

Deficiency payments, $6,116,000,000;	6,116,000,000
Export guarantee loan claims, $711,386,000;	711,386,000
Commodity purchases, $1,150,875,000;	1,150,875,000
Crop insurance, $200,000,000;	200,000,000
Storage and handling payments, $1,343,166,000;	1,343,166,000
Transportation of commodities, $185,464,000;	185,464,000
Processing and packaging of commodities, $105,065,000;	105,065,000
Producer storage payments, $609,801,000;	609,801,000
Loan collateral settlements, $142,236,000;	142,236,000
Whole herd buy out payments (dairy termination program), $218,000,000;	218,000,000
Interest payments to the United States Treasury, $1,468,860,000;	1,468,860,000
Working capital, $1,500,000,000;	1,500,000,000
Prior year losses, $1,422,400,000;	1,422,400,000
Other expenses, $5,292,046,000;	5,292,046,000
Operating expenses, $541,691,000;	541,691,000
Special activities (wool program), $126,108,000;	126,108,000
Support of advisory committees or commissions, including travel or per diem expenses, $560,000:	560,000

Provided, That such provisions shall not interfere with the Commodity Credit Corporation's discharge of its corporate responsibilities: *Provided further,* That not to exceed 7 per centum of the funds made available for any program or activity may be transferred to another program or activity as provided by existing law: *Provided further,* That notwithstanding any other provision of law, the Commodity Credit Corporation shall pay an interest penalty, determined on the basis of the provisions of the Prompt Payment Act (31 U.S.C. 3901 et seq.), on the amount of all payments and price support loans which the Commodity Credit Corporation is obligated to make if payment is not made by the required payment date. This provision shall be applicable to all such payments for obligations incurred after January 1, 1988.

[*Total, operating expenses, $21,133,658,000.*]

INCREASE IN BORROWING AUTHORITY

Section 4(i) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(i)) is amended by striking out "$25,000,000,000" and inserting in lieu thereof "$30,000,000,000".

Section 4 of the Act of March 8, 1938 (15 U.S.C. 713a-4) is amended by striking out "$25,000,000,000" and inserting in lieu thereof "$30,000,000,000".

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1125(b) of the Food Security Act of 1985 (Public Law 99-198). *$5,000,000,000 (loan authorization)*

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1131(3)(B) of the Food Security Act of 1985 (Public Law 99-198). *500,000,000 (loan authorization)*

GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

Not to exceed $7,157,000 may be transferred from the Commodity Credit Corporation funds to support the General Sales Manager, of which up to $4,000,000 shall be available only for the purpose of selling surplus agricultural commodities from Commodity Credit Corporation inventory in world trade at competitive prices for the purpose of regaining and retaining our normal share of world markets. The General Sales Manager shall report directly to the Secretary of Agriculture. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95-501, and shall submit quarterly reports to the appropriate committees of Congress concerning such developments. *7,157,000 (by transfer)*

[*Total, Corporations, $21,562,181,000.*]

[*Total, title I, Agricultural Programs:*

[*New budget (obligational) authority ..... $23,871,233,000.*]

[*By transfer ..... 619,385,000.*]

[*Limitation on administrative expenses ..... 67,484,000.*]

[*Loan authorization ..... 5,500,000,000.*]

TITLE II—RURAL DEVELOPMENT PROGRAMS

RURAL DEVELOPMENT ASSISTANCE

OFFICE OF THE UNDER SECRETARY FOR SMALL COMMUNITY AND RURAL DEVELOPMENT

For necessary salaries and expenses for the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Electrification Administration, Federal Crop Insurance Corporation, and rural development activities of the Department of Agriculture, $440,000. $440,000

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

From funds in the Rural Housing Insurance Fund, and for insured loans as authorized by title V of the Housing Act of 1949, as amended, $1,844,990,000, of which not less than $1,794,420,000 shall be for subsidized interest loans to low-income borrowers, as determined by the Secretary, and for subsequent loans to existing borrowers or to purchasers under assumption agreements or credit sales; and not to exceed $10,000,000 to enter into collection and servicing contracts pursuant to the provisions of section 3(f)(3) of the Federal Claims Act of 1966 (31 U.S.C. 3718). *1,844,990,000 (loan authorization)* *10,000,000 (limitation on obligations)*

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, total new obligations shall not exceed $275,310,000, to be added to and merged with the authority provided for this purpose in prior fiscal years: *Provided,* That of this amount not to exceed $109,918,000 is available for newly constructed units financed by section 515 of the Housing Act of 1949, as amended, and not less than $5,082,000 is for newly constructed units financed under sections 514 and 516 of the Housing Act of 1949: *Provided further,* That $160,310,000 is available for expiring agreements and for servicing of existing units without agreements: *Provided further,* That agreements entered into or renewed during fiscal year 1988 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: *Provided further,* That agreements entered into or renewed during fiscal years 1984, 1985, 1986, and 1987, may also be extended beyond five years to fully utilize amounts obligated. *275,310,000 (limitation on obligations)*

For an additional amount to reimburse the Rural Housing Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487(e), and 1490a(c)), including $2,185,000 as authorized by section 521(c) of the Act; $2,964,249,000. For an additional amount as authorized by section 521(c) of the Act such sums as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended. 2,964,249,000

[*Total, Rural Housing Insurance Fund:*
[*New budget (obligational) authority* ..... *$2,964,249,000.*]
[*Loan authorization*..... *1,844,990,000.*]
[*Limitation on obligations* ..... *285,310,000.*]

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949, as amended (42 U.S.C. 1490c), $500,000 shall be available from funds in the Self-Help Housing Land Development Fund. *500,000 (loan authorization)*

AGRICULTURAL CREDIT INSURANCE FUND

(INCLUDING TRANSFERS OF FUNDS)

For direct and guaranteed loans as authorized by 7 U.S.C. 1928-1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $505,000,000, of which $390,000,000 shall be guaranteed loans; $14,000,000 for water development, use, and conservation loans, of which $3,000,000 shall be guaranteed loans; operating loans, $3,300,000,000, of which $2,400,000,000 shall be guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $2,000,000; and for emergency insured and guaranteed loans, $600,000,000 to meet the needs resulting from natural disasters, of which $12,000,000 shall be transferred to the Commodity Credit Corporation for payments to be made to cover the difference between the partial payment and the amount of the full claim under provisions of the Farm Disaster Assistance Act of 1987 (Public Law 100-45): *Provided,* That notwithstanding any provision of law the Secretary shall execute and deliver a quit claim deed to Tennessee State University for approximately ninety acres obtained by foreclosure and recorded in book 233, page 56 of the register of deeds of Warren County, Tennessee.

[1]$505,000,000
[1]14,000,000
[1]3,300,000,000
[1]2,000,000
[1]600,000,000

For an additional amount to reimburse the Agricultural Credit Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $3,627,153,000. 3,627,153,000

[*Total, Agricultural Credit Insurance Fund:*
[*New budget (obligational) authority* ..... *$3,627,153,000.*]
[*Loan authorization* ..... *4,421,000,000.*]

RURAL DEVELOPMENT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928 and 86 Stat. 661-664, to be available from funds in the Rural Development Insurance Fund, as follows: insured water and sewer facility loans, $330,380,000; guaranteed industrial development loans, $95,700,000; and insured community facility loans, $95,700,000.

[1]330,380,000
[1]95,700,000
[1]95,700,000

For an additional amount to reimburse the Rural Development Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $842,682,000. 842,682,000

[*Total, Rural Development Insurance Fund:*
[*New budget (obligational) authority* ..... *$842,682,000.*]
[*Loan authorization* ..... *521,780,000.*]

RURAL DEVELOPMENT LOAN FUND

For direct loans to intermediary borrowers, $14,000,000, as authorized under the Rural Development Loan Fund (42 U.S.C. 9812(a)), to be available from funds in the Rural Development Loan Fund, $6,500,000 and from funds transferred from the Rural Development Insurance Fund, $7,500,000: *Provided,* That such funds be made available within six months of enactment and that a priority be given applications serving rural communities in economic distress or from organizations experienced in administering rural economic development programs.

[1]14,000,000

[1]Loan authorization.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $109,395,000, to remain available until expended, pursuant to section 306(d) of the above Act. $109,395,000

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $12,500,000. 12,500,000

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $9,513,000. 9,513,000

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $8,000,000. 8,000,000

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95-313), $3,091,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments. 3,091,000

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, $713,000. 713,000

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181), $19,140,000. 19,140,000

RURAL DEVELOPMENT GRANTS

For grants authorized under section 310(B)(c) (7 U.S.C. 1932) to any qualified public or private nonprofit organization, $6,500,000: *Provided*, That such funds shall be made available within six months of date of enactment and that a priority be given to applications from rural areas in economic distress or from organizations with previous experience in administering rural economic development programs: *Provided further*, That $3,000,000 shall be available for planning and construction costs in connection with establishment of a rural industrialization technology center in Pontotoc County, Oklahoma. 6,500,000

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Farmers Home Administration, $600,000: *Provided*, That no other funds in this Act shall be available for this Office. 600,000

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921–2000), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471–1490o); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440–444), for administering the loan program authorized by title III A of the Economic Opportunity Act of 1964 (Public Law 88–452 approved August 20, 1964), as amended, and such other programs which the Farmers Home Administration has the responsibility for administering, $407,634,000, together with not more than $3,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(a) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act of 1949, as amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended: *Provided,* That, in addition, not to exceed $1,000,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: *Provided further,* That not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $2,675,000 of this appropriation shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: *Provided further,* That, in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided further,* That, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

$407,634,000
3,000,000
(by transfer)

1,000,000
(by transfer)

CITY OF LINCOLN

The area within the present city limits of the city of Lincoln, Burleigh County, State of North Dakota, and the southeast quarter (SE¼) of section eighteen (18), township one hundred thirty-eight (138) north, range seventy-nine (79) west, Burleigh County, North Dakota, shall continue to be eligible for loans and payments administered by the Farmers Home Administration through the Rural Housing Insurance Fund.

[*Total, Farmers Home Administration:*

[*New budget (obligational) authority*	*$8,011,170,000.*]
[*By transfer*	*4,000,000.*]
[*Loan authorization*	*6,802,270,000.*]
[*Limitation on obligations*	*285,310,000.*]

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $622,050,000 nor more than $933,075,000; and rural telephone loans, not less than $239,250,000 nor more than $311,025,000; to remain available until expended: *Provided,* That loans made pursuant to section 306 of that Act are in addition to these amounts but during fiscal year 1988 total commitments to guarantee loans pursuant to section 306 shall be not less than $933,075,000 nor more than $2,100,615,000 of contingent liability for total loan principal: *Provided further,* That as a condition of approval of insured electric loans during fiscal year 1988, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982: *Provided further,* That no funds appropriated in this Act may be used to deny or reduce loans or loan advances based upon a borrower's level of general funds.

$622,050,000 (loan authorization)
239,250,000 (loan authorization)
933,075,000 (loan authorization)

REIMBURSEMENT TO THE RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

For an additional amount to reimburse the rural electrification and telephone revolving fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), $327,675,000. 327,675,000

[*Total, Rural Electrification and Telephone Revolving Fund:*
[*New budget (obligational) authority* ..... *$327,675,000.*]
[*Loan authorization* ..... *1,794,375,000.*]

RURAL TELEPHONE BANK

For the purchase of Class A stock of the Rural Telephone Bank, $28,710,000, to remain available until expended (7 U.S.C. 901–950(b)). 28,710,000

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1988, and within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than $177,045,000 nor more than $210,540,000.

177,045,000 (limitation on obligation)

RURAL COMMUNICATION DEVELOPMENT FUND

To reimburse the Rural Communication Development Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in making Community Antenna Television loans and loan guarantees under sections 306 and 310B of the Consolidated Farm and Rural Development Act, as amended, $1,309,000. 1,309,000

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Rural Electrification Administration, $155,000: *Provided,* That no other funds in this Act shall be available for this Office. $155,000

SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921–1995), and for which commitments were made prior to fiscal year 1988, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, $30,713,000. 30,713,000

[*Total, Rural Electrification Administration:*
[*New budget (obligational) authority* ..... *$388,562,000.*]
[*Loan authorization* ..... *1,794,375,000.*]
[*Limitation on obligations* ..... *177,045,000.*]
[*Total, Rural Development Assistance:*
[*New budget (obligational) authority* ..... *$8,400,172,000.*]
[*By transfer* ..... *4,000,000.*]
[*Loan authorization* ..... *8,596,645,000.*]
[*Limitation on obligations* ..... *462,355,000.*]

CONSERVATION

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $398,670,000 of which not less than $5,379,000 is for snow survey and water forecasting and not less than $4,856,000 is for operation and establishment of the plant materials centers: *Provided,* That of the foregoing amounts not less than $310,000,000 is for personnel compensation and benefits: *Provided further,* That the Chief of the Soil Conservation Service shall report directly to the Secretary of Agriculture: *Provided further,* That the cost of any permanent building, purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent build- 398,670,000

ings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: *Provided further,* That when buildings or other structures are erected on non-Federal land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further,* That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a–590f) in demonstration projects. *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e-2): *Provided further,* That none of the funds in this Act shall be used for the purpose of consolidating equipment, personnel, or services of the Soil Conservation Service's national technical centers in Portland, Oregon; Lincoln, Nebraska; Chester, Pennsylvania; and Fort Worth, Texas, into a single national technical center

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigations, and surveys of the watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006–1009), $12,051,000: *Provided,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109. $12,051,000

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001–1008), $8,651,000: *Provided,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109. 8,651,000

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001–1005, 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $165,873,000 (of which $26,271,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $3,500,000 shall be available for emergency measures as provided by sections 403–405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203–2205), and not to exceed $200,000 shall be available for employ- 165,873,000

ment under 5 U.S.C. 3109: *Provided further,* That $7,949,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurar ce Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction. [1] *$7,949,000 (loan authorization)*

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010-1011, 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451-3461), $25,120,000: *Provided,* That $1,207,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109. 25,120,000 [1] *1,207,000 (loan authorization)*

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $20,474,000, to remain available until expended (16 U.S.C. 590p(b)(7)). 20,474,000

[*Total, Soil Conservation Service:*
[*New budget (obligational) authority* ..... *$630,839,000.*]
[*Loan authorization* ..... [1] *9,156,000.*]

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q), and sections 1001-1004, 1006-1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501-1504, 1506-1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $176,935,000, to remain available until expended (16 U.S.C. 590o) for agreements, excluding administration but including technical assistance and related expenses, except that no participant in the Agricultural Conservation Program shall receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term 176,935,000

[1] Loans are made through the Agricultural Credit Insurance Fund, Farmers Home Administration.

agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: *Provided,* That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further,* That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further,* That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further,* That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further,* That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further,* That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913 to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $11,891,000, to remain available until expended, as authorized by that Act. $11,891,000

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301–1311), $8,371,000, to remain available until expended. 8,371,000

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201–2205), $1,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204. $1,000,000

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out the purposes of section 202 of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and the Republic of Mexico, $4,904,000, for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management systems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county committees, approved by the State committees and the Secretary, and for associated costs of program planning, information and education, and program monitoring and evaluation: *Provided,* That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: *Provided further,* That such program shall be coordinated with the regular Agricultural Conservation Program and with research programs of other agencies. 4,904,000

CONSERVATION RESERVE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Conservation Reserve Program pursuant to the Food Security Act of 1985 (16 U.S.C. 3881–3845), $1,131,000,000, to remain available until expended, to be used for Commodity Credit Corporation expenditures for cost-share assistance for the establishment of conservation practices, for annual rental payments, and for technical assistance: *Provided,* That 4 per centum of the funds available for the conservation reserve program in this Act shall be transferred to the conservation operations account of the Soil Conservation Service for services of its technicians in carrying out the conservation programs of the Food Security Act of 1985: *Provided further,* That none of the funds in this Act may be used to enter into new contracts that are in excess of the prevailing local rental rates for an acre of comparable land: *Provided further,* That funds appropriated by this Act for the Conservation Reserve Program shall be used to the extent necessary to reimburse fully the Commodity Credit Corporation for conservation reserve costs financed by the Corporation during the period of the Continuing Resolutions, Public Laws 100–120 and 100–162. 1,131,000,000

[*Total, Agricultural Stabilization and Conservation Service, $1,334,101,000.*]

[*Total, Conservation:*

[*New budget (obligational) authority* ..... *$1,964,940,000.*]

[*Loan authorization* ..... *9,156,000.*]

[*Total, title II, Rural Development Programs:*

[*New budget (obligational) authority* ..... *10,365,112,000.*]

[*By transfer* ..... *4,000,000.*]

[*Loan authorization* ..... *8,605,801,000.*]

[*Limitation on obligations* ..... *462,355,000.*]

TITLE III—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Food and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service and the Human Nutrition Information Service, $365,000. $365,000

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751–1769b, except 1766(i)), and the applicable provisions other than sections 3, 17, 18, and 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1773–1785, and 1788–1789); $4,497,629,000, to remain available through September 30, 1989, of which $679,826,000 is hereby appropriated and $3,817,803,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided,* That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further,* That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: *Provided further,* That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary. 679,826,000 *3,817,803,000 (by transfer)*

SPECIAL MILK PROGRAM

For necessary expenses, to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $21,500,000, to remain available through September 30, 1989. Only final reimbursement claims for milk submitted to State agencies within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds 21,500,000

appropriated under this Act. States may receive program funds appropriated under this Act only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $1,802,363,000, to remain available through September 30, 1989. $1,802,363,000

STUDY OF MEDICAID SAVINGS FOR NEWBORNS FROM WIC PROGRAM

(a) STUDY.—The Secretary of Agriculture shall conduct a national study of savings in the amount of assistance provided to families with newborns under State plans for medical assistance approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and State indigent health care programs, during the first 60-day period after birth, as the result of the prenatal participation of mothers in the special supplemental food program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(b) REPORT.—Not later than February 1, 1990, the Secretary shall submit to Congress a report that describes the results of the study conducted under subsection (a).

(c) FUNDING.—This section shall be carried out using funds made available under section 17(g)(3) of the Child Nutrition Act of 1966.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $8,000,000 for the projects in Detroit, New Orleans, and Des Moines, $50,000,000: *Provided,* That funds available above those needed to serve 145,000 women, infants, and children and 80,000 elderly persons in States operating projects in 1987 shall be used to fund additional women, infants, and children in projects in States without projects in 1987: *Provided further,* That funds provided herein shall remain available through September 30, 1989: *Provided further,* That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program. 50,000,000

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2027, 2028, 2029), $13,557,757,000: *Provided,* That funds provided herein shall remain available through September 30, 1988 in accordance with section 18(a) of the Food Stamp Act: *Provided further,* That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further,* That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: *Provided further,* That $345,000,000 of the funds provided herein shall be available only to the extent necessary after the 13,557,757,000

Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste, and abuse in the program: *Provided further,* That $879,250,000 of the foregoing amount shall be available for Nutrition Assistance for Puerto Rico as authorized by 7 U.S.C. 2028. *$879,250,000 (Puerto Rico)*

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), section 4(b) of the Food Stamp Act (7 U.S.C. 2013), and section 311 of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a(a)), $194,108,000. 194,108,000

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

For necessary expenses to carry out the Temporary Emergency Food Assistance Act of 1983, as amended, $50,000,000: *Provided,* That, in accordance with section 202 of Public Law 98-92, these funds shall be available only if the Secretary determines the existence of excess commodities. 50,000,000

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the Domestic Food Programs funded under this Act, $85,828,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109. 85,828,000

[*Total, Food and Nutrition Service, $16,441,382,000.*]

HUMAN NUTRITION INFORMATION SERVICE

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition and consumer use and economics of food utilization, $8,623,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225). 8,623,000

[*Total, title III, Domestic Food Programs:*
[*New budget (obligational) authority ..... $16,450,370,000.*]
[*By transfer ..... 3,817,803,000.*]

TITLE IV—INTERNATIONAL PROGRAMS

FOREIGN AGRICULTURAL SERVICE

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $110,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $92,017,000: *Provided,* That not less than $255,000 of this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis: *Provided further,* 92,017,000

That, hereafter, notwithstanding any other provision of law, upon the request of the Secretary of Agriculture, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Foreign Agricultural Service Officer assigned to any United States mission abroad: *Provided further,* That the number of Agricultural Counselors accorded such diplomatic title at any time shall not exceed eight: *Provided further,* That funds available to the Foreign Agricultural Service under this and subsequent appropriations Acts shall be available to contract with individuals for services to be performed outside the United States as determined by the Service to be necessary or appropriate for carrying out programs and activities abroad. Such individuals shall not be regarded as officers or employees of the United States under any law, including any law administered by the Office of Personnel Management.

PUBLIC LAW 480

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701-1715, 1721-1726, 1727-1727f, 1731-1736g), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, or for convertible foreign currency for use under 7 U.S.C. 1708, and for furnishing commodities to carry out the Food for Progress Act of 1985, not more than $852,000,000, of which $429,596,000 is hereby appropriated and the balance derived from proceeds from sales of foreign currencies and dollar loan repayments, repayments on long-term credit sales, carryover balances and commodities made available from the inventories of the Commodity Credit Corporation by the Secretary of Agriculture pursuant to sections 102 and 403(b) of said Act, and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than $630,000,000, of which $630,000,000 is hereby appropriated: *Provided,* That not to exceed 10 per centum of the funds made available to carry out any title of this paragraph may be used to carry out any other title of this paragraph. $429,596,000 630,000,000

[*Total, Public Law 480, $1,059,596,000.*]

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), $5,295,000: *Provided,* That in addition, funds available to the Department of Agriculture shall be available to assist an international organization in meeting the costs, including salaries, fringe benefits and other associated costs, related to the employment by the organization of Federal personnel that may transfer to the organization under the provisions of 5 U.S.C. 3581-3584, or of other well-qualified United States citizens, for the performance of activities that contribute to increased understanding of international agricultural issues, with transfer of funds for this purpose from one appropriation to another or to a single account authorized, such funds remaining available until expended. 5,295,000

Provided further, That the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

SCIENTIFIC ACTIVITIES OVERSEAS (FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(b) (1), (3)), $1,500,000: *Provided,* That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further,* That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed and can be used most effectively to carry out the purposes of this paragraph: *Provided further,* That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109. $1,500,000

[*Total, title IV, International Programs, $1,158,408,000.*]

TITLE V—RELATED AGENCIES

Food and Drug Administration

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $450,504,000: *Provided,* That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701. 450,504,000

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $1,450,000. 1,450,000

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, $25,612,000: *Provided,* That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 10 per centum of the funds made available for rental payments (FDA) to or from this account. 25,612,000

[*Total, Food and Drug Administration, $477,566,000.*]

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $32,813,000, including not to exceed $700 for official reception and representation expenses. $32,813,000

FARM CREDIT ADMINISTRATION

LIMITATION ON REVOLVING FUND FOR ADMINISTRATIVE EXPENSES

Notwithstanding any provision of The Farm Credit Act Amendments of 1987 (H.R. 3030), or any similar bill, if enacted into law, not to exceed $35,000,000 (from assessments collected from farm credit system banks), of which not to exceed $1,500 shall be available for official reception and representation expenses, shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249. *35,000,000 (limitation on administrative expenses)*

[*Total, title V, Related Agencies:*
[*New budget (obligational) authority* ..... *$510,379,000.*]
[*Limitation on administrative expenses* ..... *35,000,000.*]

TITLE VI—GENERAL PROVISIONS

SEC. 601. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 602. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1988 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed seven hundred and fifty-four (754) passenger motor vehicles, of which seven hundred and forty-six (746) shall be for replacement only, and for the hire of such vehicles.

SEC. 603. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefore as authorized by law (5 U.S.C. 5901–5902).

SEC. 604. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946 and July 28, 1954, and (7 U.S.C. 427, 1621–1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

SEC. 605. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marijuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

SEC. 606. Advances of money to chiefs of field parties from any appropriation in this Act for the Department of Agriculture may be made by authority of the Secretary of Agriculture.

SEC. 607. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided*, That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 608. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Public Law 480; Mutual and Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development; Colorado River Basin Salinity Control Program; Animal and Plant Health Inspection Service, $4,500,000 for the contingency fund to meet emergency conditions, and buildings and facilities; Agricultural Stabilization and Conservation Service, salaries and expenses funds made available to county committees; the Federal Crop Insurance Corporation Fund; Rural Housing for Domestic Farm Labor; Agricultural Research Service, buildings and facilities; Scientific Activities Overseas (Foreign Currency Program); Dairy Indemnity Program; $5,000,000 for the grasshopper and Mormon cricket control program, Animal and Plant Health Inspection Service; $2,852,000 for higher education training grants under section 1417(a)(3)(B) of Public Law 95-113, as amended (7 U.S.C. 3152(a)(3)(B)); and buildings and facilities, Food and Drug Administration.

SEC. 609. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 610. Not to exceed $50,000 of the appropriation available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449.

SEC. 611. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation county committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise full utilized, and ceilings on full-time equivalent staff years established for or by the Department of Agriculture shall exclude overtime as well as staff years expended as a result of carrying out programs associated with natural disasters, such as forest fires, droughts, floods, and other acts of God.

SEC. 612. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

SEC. 613. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

SEC. 614. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 615. Certificates of beneficial ownership sold by the Farmers Home Administration in connection with the Agricultural Credit Insurance Fund, Rural Housing Insurance Fund, and the Rural Development Insurance Fund shall be not less than 65 per centum of the value of the loans closed during the fiscal year.

SEC. 616. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agri-

culture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 617. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

SEC. 618. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

SEC. 619. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

SEC 620. During fiscal year 1988, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

SEC. 621. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1987 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act.

SEC. 622. In fiscal year 1988, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

SEC. 623. Funds provided by this Act may be used for translation of publications of the Department of Agriculture into foreign languages when determined by the Secretary to be in the public interest.

SEC. 624. None of the funds appropriated by this or any other Act may be used to relocate the Hawaii State Office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii.

SEC. 625. Provisions of law prohibiting or restricting personal services contracts shall not apply to veterinarians employed by the Department to take animal blood samples, test and vaccinate animals, and perform branding and tagging activities on a fee-for-service basis.

SEC. 626. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: Farmers Home Administration, 12,675; Agricultural Stabilization and Conservation Service, 2,550; Rural Electrification Administration, 550; and Soil Conservation Service, 14,177.

SEC. 627. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 628. Funds appropriated by this Act shall be applied only to the objects for which appropriations were made except as otherwise provided by law, as required by 31 U.S.C. 1301.

SEC. 629. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 630. None of the funds provided in this Act may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended: *Provided,* That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: *Provided further,* That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: *Provided further,* That this provision shall not prohibit the release of information submitted by milk handlers.

SEC. 631. Unless otherwise provided in this Act, none of the funds appropriated or otherwise made available in this Act may be used by the Farmers Home Administration to employ or otherwise contract with private debt collection agencies to collect delinquent payments from Farmers Home Administration borrowers.

SEC. 632. During fiscal year 1988 and each succeeding fiscal year, the Secretary of Agriculture shall permit each district office of the Farmers Home Administration to exempt any existing dwelling from any limitation established by the Secretary on the number of square feet of living area that may be contained in a dwelling to be eligible for a loan under section 502 of the Housing Act of 1949, if the dwelling is modest in design, size, and cost for the area in which it is located.

SEC. 633. Hereafter, notwithstanding section 306A (c), (d), and (e) of the Rural Electrification Act of 1936, as amended, a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the borrower, prepay such loan (or any loan advance thereunder) in accordance with section 306A (a) and (b) of such Act: *Provided,* That any prepayment in excess of $2,500,000,000 shall be subject to the approval of the Secretary of the Treasury.

SEC. 634. None of the funds appropriated in this Act or any other Act shall be used to alter the method of computing normalized prices for agricultural commodities for use by any Federal agency in evaluating water resources development projects to be undertaken in whole or in part with Federal funds that was in effect as of January 1, 1986.

SEC. 635. None of the funds in this Act, or otherwise made available by this Act, shall be used to sell loans made by the Agricultural Credit Insurance Fund.

SEC. 636. (a) Section 1323(a)(1) of the Food Security Act of 1985 is amended by striking out "For the fiscal year ending September 30, 1987" and inserting in lieu thereof "Prior to September 30, 1988".

(b) Section 1323(a)(5) of such Act is amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1988".

(c) Section 1323(b)(1) of such Act is amended by striking out "For the fiscal year ending September 30, 1987" and inserting in lieu thereof "Prior to September 30, 1988".

SEC. 637. $10,000,000 of section 32 funds shall be used to purchase sunflower oil, such purchases to facilitate additional sales of sunflower oil in World Markets at competitive prices, so as to compete with other countries in fiscal years 1988 and 1989.

SEC. 638. Section 201(d)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)) is amended—

(1) in subparagraph (A) by striking out "During the period beginning on April 1, 1986, and ending on September 30, 1987," and inserting in lieu thereof "Beginning after March 31, 1986,";

(2) in subparagraph (B) by striking out "subparagraph (E)" and inserting in lieu thereof "subparagraphs (E) and (F)"; and

(3) by adding at the end thereof the following new subparagraph:

"(F)(i) The Secretary—

"(I) notwithstanding the Balanced Budget and Emergency Deficit Control Act of 1985 and any order issued by the President under section 252 of such Act for a fiscal year; and

"(II) in lieu of making any reduction in payments for the purchase of milk or the products of milk under this subsection during such fiscal year under any such order;

shall provide for the reduction (measured in cents per hundredweight of milk marketed) under subparagraph (A) during the period beginning on October 1 and ending on September 30 of such fiscal year as the sole means of achieving any reduction in budget outlays under the milk price-support program that otherwise would be required under either such order and only for the purpose of substituting for any reduction in payments made by the Secretary for the purchase of milk or the products of milk under either such order.

"(ii) The aggregate amount of any reduction under subparagraph (A) resulting from the operation of clause (i) may not exceed the aggregate amount of the reduction in budget outlays under the milk price-support program, as estimated by the Secretary, that otherwise would have been achieved under either such order by reducing payments made by the Secretary for the purchase of milk or the products of milk under this subsection during such fiscal year.".

SEC. 639. Section 1581(b) of the Food Security Act of 1985 (Public Law 99-198) is amended by striking out "June 30, 1987," and inserting in lieu thereof "June 30, 1988,".

This Act may be cited as the "Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988".

[*Total, Rural Development, Agriculture, and Related Agencies Appropriations, 1988:*

[*New budget (obligational) authority* ..... *$52,355,502,000.*]
[*By transfer* ..... *4,441,188,000.*]
[*Loan authorization* ..... *14,105,801,000.*]
[*Limitation on obligations* ..... *462,355,000.*]
[*Limitation on administrative expenses* ..... *102,484,000.*]

(Department of Transportation and Related Agencies Appropriations Act, 1988)

(l) Such amounts as may be necessary for programs, projects, or activities provided for in the Department of Transportation and Related Agencies Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of the Secretary of Transportation, including not to exceed $30,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine; $1,050,000 for the Immediate Office of the Secretary; $451,000 for the Immediate Office of the Deputy Secretary; $5,785,000 for the Office of the General Counsel; $7,796,000 for the Office of the Assistant Secretary for Policy and International Affairs; $2,105,000 for the Office of the Assistant Secretary for Budget and Programs; $2,367,000 for the Office of the Assistant Secretary for Governmental Affairs; $22,099,000, of which $15,360,000 shall be derived from unobligated balances of "Payments to air carriers", for the Office of the Assistant Secretary for Administration; $1,459,000 for the Office of the Assistant Secretary for Public Affairs; $798,000 for the Executive Secretariat; $430,000 for the Contract Appeals Board; $1,244,000 for the Office of Civil Rights; $384,000 for the Office of Commercial Space Transportation; $1,700,000 for the Office of Essential Air Service; $642,000 for Regional Representatives; and $3,042,000 for the Office of Small and Disadvantaged Business Utilization, of which $2,229,000 shall remain available for the purposes of the Minority Business Resource Center as authorized by 49 U.S.C. 332: *Provided,* That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act may be used for business opportunities related to any mode of transportation: *Provided further,* That 5 per centum of each sum provided under this head for the Immediate Office of the Secretary, the Immediate Office of the Deputy Secretary, and the Office of the General Counsel shall not be available for obligation until on or after the date that final rules are issued by the Department of Transportation that: (1) expand existing requirements for installation and carriage of cockpit voice recorders and flight data recorders to smaller sizes of commuter air carrier aircraft and to require cockpit voice recorder and flight data recorder retrofits on certain types of existing commuter air carrier aircraft to be determined by the Federal Aviation Administration; and (2) require installation and carriage of operating altitude-encoding radar transponders for all aircraft operating in terminal airspace where air traffic control service is provided and in all controlled airspace above a minimum altitude to be determined by the Federal Aviation Administration.

[*Total, salaries and expenses, $35,992,000.*]

$1,050,000
451,000
5,785,000
7,796,000
2,105,000
2,367,000
6,739,000
15,360,000
(by transfer)
1,459,000
798,000
430,000
1,244,000
384,000
1,700,000
642,000
3,042,000

(5 per centum funding reserve)

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

(TRANSFERS OF FUNDS)

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, and university research and internships, to remain available until expended, $4,987,000 of which

4,987,000
(by transfer)

$4,750,000, shall be derived from "Payments to air carriers" and $237,000 shall be derived from "Expressway gap closing demonstration project".

WORKING CAPITAL FUND

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed $127,801,000 shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriation Acts to the Department of Transportation, together with advances and reimbursements received by the Department of Transportation; for necessary expenses associated with the development of the Department-wide Accounting and Information System, $1,601,000, to remain available until expended; and for the Department of Transportation office space reduction initiative, $204,000. *$127,801,000 (limitation on working capital fund)* 1,805,000

PAYMENTS TO AIR CARRIERS

For payments to air carriers of so much of the compensation fixed and determined under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389), as is payable by the Department of Transportation, $28,500,000, to remain available until expended. 28,500,000

[Total, Office of the Secretary, $66,297,000.]

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles for replacement only; and recreation and welfare, $1,789,106,000, of which $21,600,000 shall be expended from the Boat Safety Account: *Provided,* That, of the funds available under this head, not less than $429,120,000 shall be available for drug enforcement activities: *Provided further,* That the number of aircraft on hand at any one time shall not exceed two hundred and fourteen, exclusive of planes and parts stored to meet future attrition: *Provided further,* That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further,* That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109 except to the extent fees are collected from yacht owners and credited to this appropriation. 1,789,106,000

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, to remain available until September 30, 1992, $247,000,000: *Provided,* That the Secretary of Transportation shall issue regulations requiring that written warranties shall be included in all contracts with prime contractors for major systems acquisitions of the Coast Guard: *Provided further,* That any such written warranty shall not apply in the case of any system or component thereof that has been furnished by the Government to a contractor: *Provided further,* That the Secretary of Transportation may provide for a waiver of the requirements for a warranty where: (1) the waiver is necessary in the interest of the national defense or the warranty would not be cost effective; and (2) the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Merchant 247,000,000

Marine and Fisheries of the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirements: *Provided further,* That the requirements for such written warranties shall not cover combat damage.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $940,000, to remain available until expended. $940,000

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C., ch. 55), $386,700,000. 386,700,000

RESERVE TRAINING

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services, $62,880,000. 62,880,000

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for basic and applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $19,000,000, to remain available until expended: *Provided,* That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources and foreign countries, for expenses incurred for research, development, testing, and evaluation. 19,000,000

OFFSHORE OIL POLLUTION COMPENSATION FUND

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations in such amounts and at such times as may be necessary to the extent that appropriations are not adequate to meet the obligations of the Fund: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $57,000,000 in fiscal year 1988 for the "Offshore Oil Pollution Compensation Fund". *57,000,000 (limitation on obligations)*

DEEPWATER PORT LIABILITY FUND

The Secretary of Transportation is authorized to issue, and the Secretary of the Treasury is authorized to purchase, without fiscal year limitation, notes or other obligations in such amounts and at such times as may be necessary to the extent that available appropriations are not adequate to meet the obligations of the Fund: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $47,500,000 in fiscal year 1988 for the "Deepwater Port Liability Fund". *47,500,000 (limitation on obligations)*

BOAT SAFETY

(LIQUIDATION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred for recreational boating safety assistance under Public Law 92–75, as amended, $22,500,000, to be derived from the Boat Safety Account and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $21,375,000 in fiscal year 1988 for recreational boating safety assistance. *$22,500,000 (liquidation of contract authorization) 21,375,000 (limitation on obligations)*

[*Total, Coast Guard, $2,505,626,000.*]

FEDERAL AVIATION ADMINISTRATION

HEADQUARTERS ADMINISTRATION

For necessary expenses, not otherwise provided for, of providing administrative services at the headquarters location of the Federal Aviation Administration, including but not limited to accounting, budgeting, legal, public affairs, and executive direction services for the Federal Aviation Administration, $35,520,000. 35,520,000

OPERATIONS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development, and for establishment of air navigation facilities, and carrying out the provisions of the Airport and Airway Development Act, as amended, or other provisions of law authorizing the obligation of funds for similar programs of airport and airway development or improvement, purchase of four passenger motor vehicles for replacement only, $3,148,520,000, of which not to exceed $825,955,000 shall be derived from the Airport and Airway Trust Fund: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities: *Provided further,* That none of these funds shall be available for new applicants for the second career training program or for a pilot test of contractor maintenance: *Provided further,* That the immediately preceding proviso shall not prohibit the augmentation of the existing field maintenance work force if it is determined to be essential for the safe operation of the air traffic control system: *Provided further,* That section 5532(f)(2) of title V, United States Code, is amended by striking "December 31, 1987" and inserting "December 31, 1988" in lieu thereof: *Provided further,* That section 8344(h) of title V, United States Code, is amended by striking "April 1, 1986" in paragraph (2) and inserting "December 31, 1986" in lieu thereof: *Provided further,* That in the event that the Federal Aviation Administrator employs annuitants subject to section 8344(h) of title V, United States Code, not to exceed $9,700,000, to be derived from the unobligated balance of any appropriation available for obligation by the Federal Aviation Administration as of the effective date of this Act, shall be available through December 31, 1988, for the purpose of funding such employment: *Provided further,* That any such funding shall be reported to the Committees on Appropriations of the Senate and the House of Representatives. 3,148,520,000 *9,700,000 (by transfer)*

[*Subtotal, Headquarters Administration and Operations, $3,184,040,000.*]

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities, including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; construction and furnishing of quarters and related accommodations of officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the lease or purchase of one aircraft; to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1992, $1,108,056,000: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further,* That of the funds available under this head, $5,225,000 shall be available for the Secretary of Transportation to enter into grant agreements with universities or colleges having an airway science curriculum recognized by the Federal Aviation Administration, to conduct demonstration projects in the development, advancement, or expansion of airway science curriculum programs, and such funds, which shall remain available until expended, shall be made available under such terms and conditions as the Secretary of Transportation may prescribe, to such universities or colleges for the purchase or lease of buildings and associated facilities, instructional materials, or equipment to be used in conjunction with airway science curriculum programs, but, notwithstanding any other provision of law, beginning in fiscal year 1989 and thereafter, in no event shall the total Federal share provided for any airway science construction project exceed 50 percent of the total cost of such project. $1,108,056,000

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301–1542), including construction of experimental facilities and acquisition of necessary sites by lease or grant, $153,425,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development. 153,425,000

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for airport planning and development under section 14 of Public Law 91–258, as amended, and under other law authorizing such obligations, and obligations for noise compatibility planning and programs, $1,063,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this *1,063,000,000 (liquidation of contract authorization)*

Act shall be available for the planning or execution of programs the commitments for which are in excess of $1,268,725,000 in fiscal year 1988 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982.

$1,268,725,000 (limitation on obligations)

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Act of August 23, 1958, as amended (49 U.S.C. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year for aviation insurance activities under said Act.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

The Secretary of Transportation may hereafter issue notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such obligations may be issued to pay any necessary expenses required pursuant to any guarantee issued under the Act of September 7, 1957, Public Law 85–307, as amended (49 U.S.C. 1324 note). None of the funds in this Act shall be available for the implementation or execution of programs under this head, the obligations for which are in excess of $57,000,000 during fiscal year 1988. Such obligations shall be redeemed by the Secretary from appropriations authorized by this section. The Secretary of the Treasury shall purchase any such obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under the subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States.

(borrowing authority)

57,000,000 (limitation on borrowing authority)

[*Total, Federal Aviation Administration, $4,445,521,000.*]

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, and research of the Federal Highway Administration, not to exceed $206,736,000, shall be paid, in accordance with law, from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided*, That not to exceed $37,566,000 of the amount provided herein shall remain available until expended: *Provided further*, That, notwithstanding any other provision of law, there may be credited to this account funds received from States, counties, municipalities, other public authorities and private sources, for training expenses incurred for non-Federal employees.

206,736,000 (limitation on general operating expenses)

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

(HIGHWAY TRUST FUND)

For necessary expenses in carrying out provisions of sections 307(a) and 403 of title 23, United States Code, to be derived from the Highway Trust Fund and to remain available until expended, $6,650,000. $6,650,000

HIGHWAY-RELATED SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402, administered by the Federal Highway Administration, to remain available until expended, $9,900,000, to be derived from the Highway Trust Fund: *Provided,* That not to exceed $100,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses": *Provided further,* That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $9,405,000 in fiscal year 1988 for "Highway-related safety grants". *9,900,000 (liquidation of contract authorization)*

9,405,000 (limitation on obligations)

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

For necessary expenses of certain railroad-highway crossings demonstration projects as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, to remain available until expended, $7,790,000, of which $5,193,333 shall be derived from the Highway Trust Fund. 7,790,000

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $11,780,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1988. *11,780,000,000 (limitation on obligations)*

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $13,400,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended. *13,400,000,000 (liquidation of contract authorization)*

RIGHT-OF-WAY REVOLVING FUND

(LIMITATION ON DIRECT LOANS)

(HIGHWAY TRUST FUND)

During fiscal year 1988 and with the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $45,457,000. *$45,457,000 (limitation on direct loans)*

MOTOR CARRIER SAFETY

For necessary expenses to carry out the motor carrier safety functions of the Secretary as authorized by the Department of Transportation Act (80 Stat. 939-940), $22,790,000, of which $1,920,000 shall remain available until expended, and not to exceed $300,000 shall be available for "Limitation on general operating expenses". 22,790,000

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of section 402 of Public Law 97-424, $50,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $46,992,000 for "Motor carrier safety grants". *50,000,000 (liquidation of contract authorization) 46,992,000 (limitation on obligations)*

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES

Notwithstanding any other provision of law, there is appropriated $1,786,000 for necessary expenses of certain access highway projects, as authorized by section 155, title 23, United States Code, to remain available until expended. 1,786,000

BALTIMORE-WASHINGTON PARKWAY

(HIGHWAY TRUST FUND)

For necessary expenses, not otherwise provided, to carry out the provisions of the Federal-Aid Highway Act of 1970, for the Baltimore-Washington Parkway, to remain available until expended, $14,250,000, to be derived from the Highway Trust Fund and to be withdrawn therefrom at such times and in such amounts as may be necessary. 14,250,000

WASTE ISOLATION PILOT PROJECT ROADS

For necessary expenses in connection with the upgrading of certain highways for the transportation of nuclear waste generated during defense-related activities, not otherwise provided for, $15,504,000, to remain available until expended. 15,504,000

EXPRESSWAY GAP CLOSING DEMONSTRATION PROJECT

For necessary expenses to carry out a highway construction project along State Route 113 in north-central California that demonstrates methods of reducing motor vehicle congestion and increasing employment, $7,885,000, to remain available until expended. 7,885,000

INTERMODAL URBAN DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For necessary expenses to carry out the provisions of section 124 of the Federal-Aid Highway Amendments of 1974, $9,500,000, to be derived from the Highway Trust Fund and to remain available until expended. $9,500,000

HIGHWAY SAFETY AND ECONOMIC DEVELOPMENT DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

For necessary expenses to carry out construction projects as authorized by Public Law 99-500 and Public Law 99-591, $9,500,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That, notwithstanding any other provision of law, funds appropriated for this project shall not be included in any calculations made under section 157 of title 23, United States Code, for fiscal year 1988 and each fiscal year thereafter. 9,500,000

HIGHWAY SAFETY IMPROVEMENT DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a coordinated project of highway improvements in the vicinity of Pontiac and East Lansing, Michigan, that demonstrates methods of enhancing safety and promoting economic development through widening and resurfacing of highways on the Federal-aid primary system and on roads on the Federal-aid urban system, as authorized by Public Law 99-500 and Public Law 99-591, $1,900,000, to be derived from the Highway Trust Fund and to remain available until expended. 1,900,000

HIGHWAY-RAILROAD GRADE CROSSING SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a coordinated project of highway-railroad grade crossing separations in Mineola, New York, that demonstrates methods of enhancing highway-railroad grade crossing safety while minimizing surrounding environmental effects, as authorized by Public Law 99-500 and Public Law 99-591, $9,500,000, to be derived from the Highway Trust Fund and to remain available until expended. 9,500,000

BRIDGE IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project in the vicinity of Jacksonville, Florida, for the purpose of demonstrating methods of reducing traffic congestion and improving efficiency in the trans-shipment of military and civilian cargo, by construction of a bridge to Blount Island, widening State Highway 105 (Heckscher Drive) and constructing an interchange at the intersection of Heckscher Drive and the new Blount Island Bridge, $4,750,000, to remain available until expended. 4,750,000

VEHICULAR AND PEDESTRIAN SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a demonstration of methods of improving vehicular and pedestrian safety on roads on the Federal-aid urban and Federal-aid secondary systems, involving Route 66 in Northampton and Huntington, Massachusetts, $6,650,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs. $6,650,000

HIGHWAY BRIDGE RELOCATION DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project involving the relocation of U.S. Highway 101 and the Queets River Bridge in the State of Washington that demonstrates methods of improving highway safety, $2,470,000, to remain available until expended. 2,470,000

HIGHWAY BYPASS DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project in the vicinity of Prunedale, California, that demonstrates methods of accelerating the environmental studies and preliminary engineering for the construction of a highway bypass, $1,900,000, to remain available until expended. 1,900,000

HIGHWAY WIDENING AND IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project between Paintsville and Prestonsburg, Kentucky, that demonstrates the safety and economic benefits of widening and improving highways in mountainous areas, $2,375,000, to remain available until expended. 2,375,000

CORRIDOR SAFETY IMPROVEMENT PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a demonstration of methods of improving vehicular and pedestrian safety on roads on the Federal-aid primary and Federal-aid secondary systems, involving Route 1 in New Jersey, there is hereby authorized to be appropriated $50,000,000, to be derived from the Highway Trust Fund and to remain available until expended, of which $4,702,000 is hereby appropriated and to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs. 4,702,000

BRIDGE CAPACITY IMPROVEMENTS

(HIGHWAY TRUST FUND)

For the purpose of carrying out the Nashua River Bridge and Broad Street Parkway project in Nashua, New Hampshire, that crosses the Nashua River, there is hereby authorized to be appropriated $8,000,000, to be derived from the Highway Trust Fund and to remain available until expended, of which $237,000 is hereby 237,000

appropriated, to remain available until expended. All funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

TRAFFIC IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway bypass project in the vicinity of Petoskey, Michigan, that demonstrates methods of improving economic development and regional transportation, there is authorized to be appropriated $28,000,000, to remain available until expended, of which $475,000 is hereby appropriated, to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs. $475,000

[*Total, Federal Highway Administration, $130,614,000.*]

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under the Motor Vehicle Information and Cost Savings Act (Public Law 92–513, as amended), and the National Traffic and Motor Vehicle Safety Act, $62,534,000, of which $29,331,000 shall remain available until expended: *Provided,* That, of the funds available under this head, $6,480,000 shall be available to implement the recommendations of the 1985 National Academy of Sciences report on trauma research. 62,534,000

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under chapter 4, title 23, United States Code, to be derived from the Highway Trust Fund, $30,346,000, to remain available until expended: *Provided,* That, of the funds available under this head, $1,680,000 shall be available for light truck and van safety research and analysis. 30,346,000

[*Total, Operations and Research, $92,880,000.*]

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred carrying out the provisions of 23 U.S.C. 402, 406, and 408, and section 209 of Public Law 95–599, as amended, to remain available until expended, $135,000,000, to be derived from the Highway Trust Fund: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $114,950,000 in fiscal year 1988 for "State and community highway safety grants" authorized under 23 U.S.C. 402: *Provided further,* That none of these funds shall be used for construction, rehabilitation or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further,* *135,000,000 (liquidation of contract authorization)* *114,950,000 (limitation on obligations)*

That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $13,533,000 for "Alcohol safety incentive grants" authorized under 23 U.S.C. 408: *Provided further,* That not to exceed $4,656,000 shall be available for administering the provisions of 23 U.S.C. 402: *Provided further,* That notwithstanding any other provision of law, none of the funds in this Act shall be available for the planning or execution of programs authorized under section 209 of Public Law 95-599, as amended, the total obligations for which are in excess of $4,750,000 in fiscal years 1982, 1983, 1984, 1985, 1986, 1987, and 1988.

$13,533,000 (limitation on obligations)

[1]*4,750,000*

[*Total, National Highway Traffic Safety Administration, $92,880,000.*]

FEDERAL RAILROAD ADMINISTRATION

Office of the Administrator

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $22,877,000, together with $1,900,000 to be derived from unobligated balances of "Airport access demonstration project", of which $15,024,000 shall remain available until expended; and in addition, all unexpended balances in "Rail service assistance" after September 30, 1987, shall be transferred to this account, to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and that no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: *Provided further,* That none of the funds in this Act shall be available for the acquisition, sale, or transference of Washington Union Station without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives: *Provided further,* That, notwithstanding any other provision of law, of the funds available under this head, $9,600,000 shall be available for necessary expenses for rail assistance authorized by section 5(q) of the Department of Transportation Act, as amended, to remain available until expended: *Provided further,* That $7,200,000 of the fiscal year 1988 funds made available under section 5(h) shall be made available for use directly under sections 5(h)(3)(B)(ii) and 5(h)(3)(C) of the Department of Transportation Act, as amended, notwithstanding any provisions therein to the contrary: *Provided further,* That each State shall be entitled to, and no more than, $48,000 under the combined provisions of section 5(h)(2) and section 5(i), notwithstanding any provisions therein to the contrary: *Provided further,* That no State may apply for fiscal year 1988 funds available under section 5(h)(2) until such State has obligated all funds granted to it under section 5(h)(2) in the fiscal years prior to the beginning of fiscal year 1983, other than funds not expended due to pending litigation: *Provided further,* That a State denied funding by reason of the preceding proviso may still apply for and receive funds for planning purposes.

22,877,000
1,900,000 (by transfer)

Railroad Safety

For necessary expenses in connection with railroad safety, not otherwise provided for, $27,968,000, of which $2,090,000 shall remain available until expended.

27,968,000

[1] Cumulative limitation on obligations for fiscal years 1982, 1983, 1984, 1985, 1986, 1987, and 1988.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $9,286,000, to remain available until expended. $9,286,000

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for improvements to the Communication and Signal Systems at locations between Wilmington, Delaware, and Boston, Massachusetts, on the Northeast Corridor main line and between Philadelphia, Pennsylvania, and Harrisburg, Pennsylvania, on the Harrisburg line; improvements to the Electric Traction System between Wilmington, Delaware, and Newark, New Jersey; installation of baggage rack restraints, seat back guards and seat lock devices on 348 passenger cars operating within the Northeast Corridor; installation of 44 event recorders and 10 electronic warning devices on locomotives operating within the Northeast Corridor; acquisition of cab signal test boxes and installation of 9 wayside loop code transmitters for use on the Northeast Corridor; North Philadelphia Station platform refurbishments, building renovations, and site improvements; and necessary mechanical, electrical, and structural repair work on the North Tunnel; $26,600,000, together with $950,000 to be derived from unobligated balances of "Airport access demonstration project", to remain available until expended. 26,600,000 *950,000 (by transfer)*

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for operating losses incurred by the Corporation, capital improvements, and labor protection costs authorized by 45 U.S.C. 565, to remain available until expended, $580,800,000: *Provided,* That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: *Provided further,* That the Secretary shall make no commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602 in fiscal year 1988: *Provided further,* That the incurring of any obligation or commitment by the Corporation for the purchase of capital improvements prohibited by this Act or not expressly provided for in an appropriation Act shall be deemed a violation of 31 U.S.C. 1341: *Provided further,* That no funds are required to be expended or reserved for expenditure pursuant to 45 U.S.C. 601(e): *Provided further,* That none of the funds in this or any other Act shall be made available to finance the rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service) on the main line track between Atlantic City, New Jersey, and the main line of the Northeast Corridor, unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Federal sources: *Provided further,* That, notwithstanding any other provision of law, the National Railroad Passenger Corporation shall not operate rail passenger service between Atlantic City, New Jersey, and the Northeast Corridor main line unless the Corporation's Board of Directors determines that revenues from such service have covered or exceeded 80 per centum 580,800,000

of the short term avoidable costs of operating such service in the first year of operation and 100 per centum of the short term avoidable operating costs for each year thereafter: *Provided further,* That none of the funds provided in this or any other Act shall be made available to finance the acquisition and rehabilitation of a line, and construction necessary to facilitate improved rail passenger service, between Spuyten Duyvil, New York, and the main line of the Northeast Corridor unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Amtrak sources.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided,* That no new loan guarantee commitments shall be made during fiscal year 1988: *Provided further,* That, notwithstanding any other provision of law, the Secretary of Transportation shall sell all securities or promissory notes held by the Department of Transportation under authority of sections 502, 505-507, 509, and 511-513 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended: *Provided further,* That such securities or promissory notes authorized to be sold in the immediately preceding proviso shall be sold only for amounts greater than or equal to the net present value to the Government of each loan as determined by the Secretary of Transportation in consultation with the Secretary of the Treasury: *Provided further,* That the Secretary of Transportation shall transmit a written certification to the Committees on Appropriations of the Senate and House of Representatives for approval before the consummation of each sale certifying that the amount to be realized is equal to or greater than the net present value to the Government of each loan: *Provided further,* That, notwithstanding any other provision of law, all amounts realized from the sale of notes or securities sold under authority of this section shall be considered as domestic discretionary outlay offsets and not as "asset sales" or "loan prepayments" as defined by section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

$205,000,000 (railroad credit enhancement)

SETTLEMENTS OF RAILROAD LITIGATION

For the settlement of promissory notes pursuant to section 210(f) of the Regional Rail Reorganization Act of 1973 (Public Law 93-236), as amended, $38,950,246, to be derived from the proceeds of settlements of railroad litigation, to remain available until expended.

[*Total, Federal Railroad Administration, $667,531,000.*]

38,950,246 (appropriation for debt reduction)

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the urban mass transportation program authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), and 23 U.S.C. chapter 1, in connection with these activities, including hire of

passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $31,882,000, of which not to exceed $600,000 shall be available for the Office of the Administrator. $31,882,000

RESEARCH, TRAINING, AND HUMAN RESOURCES

For necessary expenses for research, training, and human resources as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until expended, $12,217,000: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for training. 12,217,000

FORMULA GRANTS

For necessary expenses to carry out the provisions of sections 9 and 18 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), $1,731,703,000, together with $4,750,000 to carry out the provisions of section 18(h) of the Urban Mass Transportation Act, as amended, to remain available until expended: *Provided,* That notwithstanding any other provision of law, before apportionment of these funds, $12,350,000 shall be made available for the purposes of section 18 of the Urban Mass Transportation Act of 1964, as amended: *Provided further,* That, notwithstanding any other provision of law, of the funds provided under this Act for formula grants, no more than $804,691,892 may be used for operating assistance under section 9(k)(2) of the Urban Mass Transportation Act of 1964, as amended. 1,731,703,000
4,750,000

[*Total, Formula Grants, $1,736,453,000.*]

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs in excess of $1,130,500,000, in fiscal year 1988 for grants under the contract authority authorized in section 21 (a)(2) and (b) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.). *1,130,500,000 (limitation on obligations)*

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out section 21 (a)(2) and (b) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), administered by the Urban Mass Transportation Administration, $1,100,000,000, to be derived from the Highway Trust Fund and to remain available until expended. *1,100,000,000 (liquidation of contract authorization)*

INTERSTATE TRANSFER GRANTS—TRANSIT

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, $123,500,000, to remain available until expended. 123,500,000

WASHINGTON METRO

For necessary expenses to carry out the provisions of section 14 of Public Law 96-184, $180,500,000, to remain available until expended. $180,500,000

[Total, Urban Mass Transportation Administration, $2,084,552,000.]

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year except as hereinafter provided in the "Limitation on administrative expenses".

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $2,016,000 shall be available for administrative expenses, which shall be computed on an accrual basis, including not to exceed $3,000 for official entertainment expenses to be expended upon the approval or authority of the Secretary of Transportation: *Provided,* That Corporation funds shall be available for the hire of passenger motor vehicles and aircraft, operation and maintenance of aircraft, uniforms or allowances therefor for operation and maintenance personnel, as authorized by law (5 U.S.C. 5901-5902), and $15,000 shall be available for services as authorized by 5 U.S.C. 3109. *2,016,000 (limitation on administrative expenses)*

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operation and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $10,806,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662. 10,806,000

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, and for expenses for conducting research and development, $12,832,000, of which $1,939,000 shall remain available until expended: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training. 12,832,000

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

For expenses necessary to conduct the functions of the pipeline safety program and for grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, $8,550,000, to be derived from the Pipeline Safety Fund, of which $4,892,000 shall remain available until expended. 8,550,000

[Total, Research and Special Programs Administration, $21,382,000.]

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, $27,898,000. $27,898,000

[*Total, title I, Department of Transportation:*
[*New budget (obligational) authority* ..... *$10,053,107,000.*]
[*By transfer* ..... *32,897,000.*]
[*Limitation on general operating expenses* ..... *206,736,000.*]
[*Limitation on administrative expenses* ..... *2,016,000.*]
[*Limitation on borrowing authority* ..... *57,000,000.*]
[*Limitation on obligations* ..... *14,489,980,000.*]
[*Limitation on cumulative obligations* ..... *4,750,000.*]
[*Limitation on working capital fund* ..... *127,801,000.*]
[*Limitation on direct loans* ..... *45,457,000.*]
[*Appropriations to liquidate contract authorizations* ..... *15,780,400,000.*]

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $1,891,000. 1,891,000

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902), $24,000,000, of which not to exceed $500 may be used for official reception and representation expenses. 24,000,000

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $1,500 for official reception and representation expenses, $44,294,000: *Provided,* That joint board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their official duties as such. 44,294,000

PAYMENTS FOR DIRECTED RAIL SERVICE

(LIMITATION ON OBLIGATIONS)

None of the funds provided in this Act shall be available for the execution of programs the obligations for which can reasonably be expected to exceed $475,000 for directed rail service authorized under 49 U.S.C. 11125 or any other Act. *475,000 (limitation on obligations)*

PANAMA CANAL COMMISSION

Operating Expenses

For operating expenses necessary for the Panama Canal Commission, including hire of passenger motor vehicles and aircraft; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); not to exceed $10,000 for official reception and representation expenses of the Board; operation of guide services; residence for the Administrator, disbursements by the Administrator for employee and community projects; not to exceed $4,000 for official reception and representation expenses of the Secretary; not to exceed $25,000 for official reception and representation expenses of the Administrator; and to employ services as authorized by law (5 U.S.C. 3109); $407,088,000, to be derived from the Panama Canal Commission Fund: *Provided,* That there may be credited to this appropriation funds received from the Panama Canal Commission's capital outlay account for expenses incurred for supplies and services provided for capital projects. $407,088,000

Capital Outlay

For acquisition, construction, replacement, and improvement of facilities, structures, and equipment required by the Panama Canal Commission, including the purchase of not to exceed 42 passenger motor vehicles for replacement only (including large heavy-duty vehicles used to transport Commission personnel across the Isthmus of Panama, the purchase price of which shall not exceed $14,000 per vehicle); and to employ services authorized by law (5 U.S.C. 3109); $33,715,000, to be derived from the Panama Canal Commission Fund and to remain available until expended. 33,715,000

[*Total, Panama Canal Commission $440,803,000.*]

DEPARTMENT OF THE TREASURY

Rebate of Saint Lawrence Seaway Tolls

(Harbor Maintenance Trust Fund)

For rebate of the United States' portion of tolls paid for use of the St. Lawrence Seaway, pursuant to Public Law 99–662, $9,880,000, to remain available until expended and to be derived from the Harbor Maintenance Trust Fund, of which not to exceed $285,000 shall be available for expenses of administering the rebates. 9,880,000

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

Interest Payments

For necessary expenses for interest payments, to remain available until expended, $49,080,000: *Provided,* That these funds shall be disbursed pursuant to terms and conditions established by Public Law 96–184 and the Initial Bond Repayment Participation Agreement. 49,080,000

[*Total, title II, Related Agencies:*

[*New budget (obligational) authority* ..... *$569,948,000*]

[*Limitation on obligations* ..... *475,000*]

TITLE III—GENERAL PROVISIONS

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 302. Funds appropriated for the Panama Canal Commission may be apportioned notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341), to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law that are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236–244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents, and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–18.

SEC. 305. None of the funds appropriated in this Act for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year nor may any be transferred to other appropriations unless expressly so provided herein.

SEC. 308. None of the funds in this or any previous or subsequent Act shall be available for the planning or implementation of any change in the current Federal status of the Transportation Systems Center; and none of the funds in this Act shall be available for the implementation of any change in the current Federal status of the Turner-Fairbank Highway Research Center.

SEC. 309. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 310. (a) For fiscal year 1988 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated

for Federal-aid highways and highway safety construction that are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to all the States for such fiscal year.

(b) During the period October 1 through December 31, 1987, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction that have been apportioned to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1988, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses, the Federal lands highway program, the strategic highway research program and amounts made available under sections 149(d), 158, 159, 164, 165, and 167 of Public Law 100-17.

(d) The limitation on obligations for Federal-aid highways and highway safety construction programs for fiscal year 1988 shall not apply to obligations for emergency relief under section 125 of title 23, United States Code, obligations under section 157 of title 23, United States Code, projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, subsections 131 (b) and (j) of Public Law 97-424, section 118 of the National Visitors Center Facilities Act of 1968, section 320 of title 23, United States Code, projects authorized by Public Law 99-500 and Public Law 99-591, or projects covered under subsections 149 (b) and (c) of Public Law 100-17.

(e) Subject to paragraph (c)(2) of this General Provision, a State which after August 1 and on or before September 30 of fiscal year 1988 obligates the amount distributed to such State in that fiscal year under paragraphs (a) and (c) of this General Provision may obligate for Federal-aid highways and highway safety construction on or before September 30, 1988, an additional amount not to exceed 5 percent of the aggregate amount of funds apportioned or allocated to such State—

(1) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(2) for highway assistance projects under section 104(e)(4) of such title,

which are not obligated on the date such State completes obligation of the amount so distributed.

(f) During the period August 2 through September 30, 1988, the aggregate amount which may be obligated by all States pursuant to paragraph (e) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(1) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(2) for highway assistance projects under section 104(e)(4) of such title,

which would not be obligated in fiscal year 1988 if the total amount of the obligation limitation provided for such fiscal year in this Act were utilized.

(g) Paragraph (e) shall not apply to any State which on or after August 1, 1988, has the amount distributed to such State under paragraph (a) for fiscal year 1988 reduced under paragraph (c)(2).

SEC. 311. None of the funds in this Act shall be available for salaries and expenses of more than one hundred thirty-eight political and Presidential appointees in the Department of Transportation.

SEC. 312. Not to exceed $665,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

SEC. 313. None of the funds in this or any other Act shall be made available for the proposed Woodward light rail line in the Detroit, Michigan area until a source of operating funds has been approved in accordance with Michigan law: *Provided*, That this limitation shall not apply to alternatives analysis studies under section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended.

SEC. 314. The limitation on obligations for the Discretionary Grants program of the Urban Mass Transportation Administration shall not apply to any authority under section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended, previously made available for obligation.

SEC. 315. Notwithstanding any other provision of law, none of the funds in this Act shall be available for the construction of, or any other costs related to, the Central Automated Transit System (Downtown People Mover) in Detroit, Michigan.

SEC. 316. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 317. (a) SAFETY ENFORCEMENT PROGRAM PERFORMANCE.—The Secretary of Transportation shall on or before January 1 of each year transmit to the Congress a comprehensive report on the Federal Aviation Administration's prior fiscal year safety enforcement activities. The report shall include:

(1) a comparison of end-of-year staffing levels by inspector category (operations, maintenance, avionics) to staffing goals and a statement as to how staffing standards were applied to make allocations between air carrier and general aviation operations, maintenance and avionics inspectors;

(2) schedules showing the range of inspector experience by various inspector work force categories, and the number of inspectors in each of the categories who are considered fully qualified;

(3) schedules showing the number and percentage of inspectors who have received mandatory training by individual course, and the number of inspectors, by work force categories, who have received all mandatory training;

(4) a description of the criteria used to set annual work programs, an explanation of how these criteria differ from criteria used in the prior fiscal year and how the annual work programs ensure compliance with appropriate Federal regulations and safe operating practices;

(5) a comparison of actual inspections performed during the fiscal year to the annual work programs disaggregated to the field locations and, for any field location completing less than 80 percent of its planned number of inspections, an explanation as to why annual work program plans were not met;

(6) a statement of the adequacy of Federal Aviation Administration internal management controls available to ensure that

field managers are complying with Federal Aviation Administration policies and procedures including those regarding inspector priorities, district office coordination, minimum inspection standards, and inspection follow-up;

(7) the status of the Federal Aviation Administration's efforts to update inspector guidance documents and Federal regulations to include technological, management, and structural changes taking place within the aviation industry, including a listing of the backlog of all proposed regulatory changes;

(8) a list of the specific operational measures of effectiveness—"best proxies" standing between the ultimate goal of accident prevention and ongoing program activities—that are being used to evaluate progress in meeting program objectives, the quality of program delivery, and the nature of emerging safety problems;

(9) a schedule showing the number of civil penalty cases closed during the two prior fiscal years, including total initial assessments, total final assessments, total dollar amount collected, range of dollar amount collected, average case processing time, and range of case processing time;

(10) a schedule showing the number of enforcement actions taken, excluding civil penalties, during the two prior fiscal years, including total number of violations cited, and the number of cited violation cases closed by certificate suspension, certification revocations, warnings, and no action taken; and

(11) schedules showing the aviation industry's safety record during the fiscal year for air carriers and general aviation, including the number of inspections performed where deficiencies were identified compared with inspections where no deficiencies were found and the frequency of safety deficiencies per carrier as well as an analysis based on the data of the general status of air carrier and general aviation compliance with Federal Aviation Regulations.

(b) LONG-RANGE NATIONAL TRANSPORTATION STRATEGIC PLANNING STUDY.—The Department of Transportation shall undertake a long-range, multi-modal national transportation strategic planning study. This study shall forecast long-term needs and costs for developing and maintaining facilities and services to achieve a desired national transportation program for moving people and goods in the year 2015. The study shall include detailed analyses of transportation needs within six to nine metropolitan areas that have diverse population, development, and demographic patterns, including at least one interstate metropolitan area. This study shall be submitted to Congress on or before October 1, 1989.

SEC. 318. Within seven calendar days of the obligation date, the Urban Mass Transportation Administration shall publish in the Federal Register an announcement of each grant obligated pursuant to sections 3 and 9 of the Urban Mass Transportation Act of 1964, as amended, including the grant number, the grant amount, and the transit property receiving each grant.

SEC. 319. None of the funds appropriated in this Act may be used to prescribe, implement, or enforce a national policy specifying that only a single type of visual glideslope indicator can be funded under the facilities and equipment account or through the airport improvement program: *Provided,* That this prohibition shall not apply in the case of airports that are certified under part 139 of the Federal Aviation Regulations.

SEC. 320. (a) The Federal Aviation Administration shall satisfy the following air traffic controller work force staffing requirements by September 30, 1988:

(1) total air traffic controller work force level of not less than 15,900;

(2) total full performance level air traffic controllers of not less than 10,450; and

(3) at least 70 percent of the air traffic controller work force, excluding common screen students, at each center and level 3 and above terminal shall have achieved operational controller status.

(b) The Secretary may waive any requirement of this section by certifying that such requirement would adversely affect aviation safety: *Provided,* That such a waiver shall become effective 30 days after the Committees on Appropriations of the Senate and the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirement.

SEC. 321. Notwithstanding any other provision of law, funds appropriated in this or any other Act intended for studies, reports, or research, and related costs thereof including necessary capital expenses, are available for such purposes to be conducted through contracts or financial assistance agreements with the educational institutions that are specified in such Acts or in any report accompanying such Acts.

SEC. 322. The Secretary of Transportation shall permit the obligation of not to exceed $4,000,000, apportioned under title 23, United States Code, section 104(b)(5)(B) for the State of Florida for operating expenses of the Tri-County Commuter Rail Project in the area of Dade, Broward, and Palm Beach Counties, Florida, during each year that Interstate 95 is under reconstruction in such area.

SEC. 323. Notwithstanding any provision of this or any other law, none of the funds provided by this Act for appropriation shall be available for payment to the General Services Administration for rental space and services at rates per square foot in excess of 100 percent of the rates paid during fiscal year 1987; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1987 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act.

SEC. 324. Notwithstanding any other provision of law, section 144(g)(2) of title 23, United States Code, shall not apply to the Virginia Street Bridge in Charleston, West Virginia.

SEC. 325. The portion of Oklahoma State Route 99 between the United States Highway 377 and Interstate Route I-44 which portion is on the Federal-aid primary system shall hereafter be designated as "United States Highway 377". Any reference in a law, map, regulation, document, record or other paper of the United States to such highway shall be held to be a reference to "United States Highway 377".

SEC. 326. Within 12 months of enactment, the Federal Aviation Administration shall adopt regulations requiring the installation and carriage of operating automatic altitude reporting equipment for all aircraft operating in terminal airspace where air traffic control radar service is provided, and in all controlled airspace above a minimum altitude to be determined by the Federal Aviation Administration. This regulation shall be effective on the earliest feasible date.

SEC. 327. None of the funds appropriated or made available by this Act or any other Act shall be made available to the New York Metropolitan Transportation Authority unless, within 90 days after the date of enactment of this Act, such authority prohibits all smoking on the Long Island Railroad.

SEC. 328. (a) Section 404 of the Federal Aviation Act of 1958 (49 U.S.C. 1374) is amended by adding at the end thereof the following subsection:

"PROHIBITION AGAINST SMOKING ON SCHEDULED FLIGHTS AND TAMPERING WITH SMOKE ALARM DEVICES

"(d)(1)(A) On and after the date of expiration of the 4-month period following the date of the enactment of this subsection, it shall be unlawful to smoke in the passenger cabin or lavatory on any scheduled airline flight in intrastate, interstate, or overseas air transportation, if such flight is scheduled for 2 hours or less in duration.

"(B) The Secretary of Transportation shall issue such regulations as may be necessary to carry out the provisions of this subsection.

"(C) The provisions of paragraph (1) of this subsection are repealed effective on the expiration of the 28-month period following the date of enactment of this subsection.

"(2) Any passenger who tampers with, disables, or destroys any smoke alarm device located in any lavatory aboard an aircraft engaged in air transportation or intrastate air transportation shall be subject to a civil penalty in accordance with section 901, except that such civil penalty may be imposed in an amount up to $2,000.".

(b) That portion of the table of contents of the Federal Aviation Act of 1958 under the heading:

"Sec. 404. Rates for carriage of persons and property; duty to provide service, rates, and divisions; foreign air transportation rates; discrimination;"

is amended by adding at the end thereof the following:

"(d) Prohibition against smoking on scheduled flights and tampering with smoke alarm devices.".

DEMONSTRATION PROGRAM FOR SIXTY-FIVE MPH SPEED LIMIT

SEC. 329. (a) Any project approval under section 106 of title 23, United States Code, shall not be withheld under sections 154(a) and 141(a) of title 23, United States Code, in fiscal years 1988, 1989, 1990, and 1991 with respect to a highway located in a State eligible under subsection (b), having a maximum speed limit of not more than sixty-five miles per hour and located outside an urbanized area of fifty thousand population, which is—

(1) constructed to interstate standards in accordance with section 109(b) of title 23, United States Code and connected to an Interstate highway posted at sixty-five miles per hour;

(2) a divided four-lane fully controlled access highway designed or constructed to connect to an Interstate highway posted at sixty-five miles per hour and constructed to design and construction standards as determined by the Secretary of Transportation which provide a facility adequate for a speed limit of sixty-five miles per hour; or

(3) constructed to the geometric and construction standards adequate for current and probable future traffic demands and for the needs of the locality and is designated by the Secretary of Transportation as part of the Interstate System in accordance with section 139(c) of title 23, United States Code.

(b) Participation in the demonstration program authorized by this section is available only to the first twenty States that post maximum speed limits of sixty-five miles per hour before July 1, 1988, in accordance with the requirements of subsection (a).

SEC. 330. Sums authorized under section 17(f) of the Urban Mass Transportation Act, as amended, shall also be used to cover costs incurred since 1978 by such States, bodies, and agencies as a result of the discontinuation of Conrail commuter rail services under section 1136 of the Northeast Rail Services Act of 1981. Eligible cost shall include but not be limited to additional costs incurred as a

result of the assumption of commuter rail service and all liabilities assumed by such States, bodies, and agencies as a result of agreements with Conrail. The Federal share of any cost covered under this provision shall be 100 percent.

SEC. 331. Section 149(b)(82) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended to read as follows: "(82) subsections (a)(82) and (a)(83) $2,300,000;". Section 149(b)(83) of such Act is repealed, and succeeding paragraphs are renumbered accordingly.

SEC. 332. The portion of the Union Canal, also known as the Union Ship Canal, an appendage of the Buffalo Outer Harbor, located in the City of Buffalo, State of New York, is declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525, et seq.) from a point two hundred feet west of Fuhrmann Boulevard east to its terminus.

SEC. 333. The Secretary of Transportation is authorized to transfer appropriated funds under "Office of the Secretary, Salaries and expenses": *Provided,* That no appropriation shall be increased or decreased by more than 2½ per centum by all such transfers: *Provided further,* That any such transfer shall be submitted for approval to the House and Senate Committees on Appropriations.

SEC. 334. (a) Notwithstanding any other provision of law, with regard to the Atlantic City Airport, at Pomona, New Jersey, the Federal Aviation Administration shall not transfer any property to any municipality or any other entity operating such airport, nor shall any funds made available by this Act be available to such municipality or entity for any planning, study, design, engineering, or construction of a runway extension, new runway, new passenger terminal, or improvements to or expansion of the existing passenger terminal at such Airport, until such time as—

(1) the Master Plan Update for Atlantic City Airport and Bader Field, prepared pursuant to Federal Aviation Administration Contract FA-EA-2656, is completed and released; and

(2) the Administrator of the Federal Aviation Administration finds that a public entity has been created to operate and manage the Atlantic City Airport, which entity has the following characteristics:

(A) the authority to enter into contracts and other agreements, including contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States;

(B) the standing to sue and be sued in its own name;

(C) the authority to hire and dismiss officers and employees;

(D) the power to adopt, amend and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised;

(E) the authority to acquire, in its own name, an interest in such real or personal property as is necessary or appropriate for the operation and maintenance of the airport;

(F) the power to acquire property by the exercise of the right of eminent domain;

(G) the power to borrow money by issuing marketable obligations, or such other means as is permissible for public authorities under the laws of the State of New Jersey;

(H) adequate existing capitalization to carry out all activities which are ordinarily necessary and appropriate to operate and maintain an airport;

(I) a governing board which includes voting representatives of the City of Atlantic City, the County of Atlantic, and the townships which are adjacent to or are directly impacted by the airport;

(J) a charter which includes (i) a requirement that members of the governing board have expertise in transportation, finance, law, public administration, aviation, or such other fields or disciplines as would be necessary or appropriate for the operation of an airport; and (ii) procedures which protect the research and development mission of the Federal Aviation Technical Center at Pomona, New Jersey, and the defense functions of the Air National Guard; and

(K) the authority to carry out comprehensive transportation planning to minimize traffic congestion and facilitate access to and from the airport.

(b) The limitation on funds set forth in subsection (a) shall not apply to any expenditure which the Administrator of the Federal Aviation Administration determines is needed for safety purposes.

(c) Notwithstanding any other provision of law, the funds restricted under subsection (a) shall become available at such time as the conditions set forth in subsection (a) are satisfied.

SEC. 335. Notwithstanding section 127 of title 23, United States Code, the State of Wyoming may permit the use of the National System of Interstate and Defense Highways located in Wyoming by vehicles in excess of 80,000 pounds gross weight, but meeting axle and bridge formula specifications in section 127 of title 23, United States Code, through September 30, 1991. Additionally, the Secretary of Transportation shall report, by September 30, 1990, to the Senate and House Appropriations Committees, and to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the United States Senate, on the productivity and economic benefits, the safety performance, and the effects of such vehicles on the condition of the highways over which they were operated.

SEC. 336. TRANSFER OF SECTION 9 FUNDS.—The Governor of Louisiana, after consultation with all urbanized areas within Louisiana, may transfer not to exceed $5,000,000 of unused apportionments under section 9 of the Urban Mass Transportation Act of 1964 to any other urbanized area for use for urban mass transportation purposes. The authority to transfer these funds expires on October 1, 1988.

SEC. 337. Section 149(a)(89) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by striking the language therein and inserting in lieu thereof:

"The Secretary is authorized to carry out a project to construct a full-diamond interchange to connect Louisiana Highway 354 to Interstate Route I-10 in East Lafayette, Louisiana.".

SEC. 338. Notwithstanding any other provision of this joint resolution or of any other law, section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 181) is amended by adding after subsection (k) the following new subsection (l).

"(l) REQUEST FOR REALLOCATION.—If, in any fiscal year amounts allocated to the State of Nevada under subsections (b) and (d) to carry out subsection (a)(68), (a)(105), or (a)(106), are not sufficient to complete any project authorized by such subsections, such State may request the Secretary to reallocate all or any portion of such funds for another of such projects.

"(2) GRANTING OF REQUESTS.—The Secretary shall grant a request made under paragraph (1) if the respective local officials having jurisdiction over the area in which the concerned projects are located consent to such request.

"(3) ADJUSTMENT OF ALLOCATION.—If any funds allocated for a project are reallocated to another project pursuant to this subsection, the amount of funds allocated for such projects in succeeding fiscal years shall be adjusted so that the aggregate amount of funds allocated for each of such projects under this section for fiscal years

1987 through 1991 is equal to the aggregate amount of funds allocated for such projects for such fiscal years by subsections (b) and (d) of this section.".

SEC. 339. Notwithstanding any other provision of law, the Secretary shall make available $250,000 per year for a national public information program to educate the public of the inherent hazard at railway-highway crossings. Such funds shall be made available out of funds authorized to be appropriated out of the Highway Trust Fund, pursuant to section 130 of title 23, United States Code.

SEC. 340. Section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended (1) by striking in subsection (b)(111)(H) "$80,000" and inserting in lieu thereof "$100,000" and (2) in subsection (b)(111)(I) by striking "$100,000" and inserting in lieu thereof "$80,000".

SEC. 341. Section 149(a) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by striking subsections 111 (A) and (B) and inserting in lieu thereof the following:

"(A)(1) MORTON COUNTY.—The Secretary is authorized to carry out a project to obtain easements for and construct an access road in Morton County FAS, Route 3020 from 11 miles south of Sweet Briar Lake, 1½ miles south of Fish Creek Lake, then easterly 8 miles to Morton County FAS Route 3047.

"(2) MORTON COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Morton County, FAS Route 3002 from 6 miles north of Crown Butte Road, then easterly 2 miles to North Dakota State Highway 1806.

"(3) MORTON COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Morton County, FAS Route 3039 from Sweet Briar Lake, north 7 miles to the Oliver County line.

"(B)(1) MERCER COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, FAS Route 2927 from 4 miles north of Hazen, North Dakota; north 8 miles to Hazen Bay, Lake Sakakawea or from 4 miles north of Hazen, North Dakota; then 3 miles north and 6 miles east to intersection of N.D. 200 and Mercer County Route 37; then in a southeasterly direction approximately 10 miles to the north corporate limits of the City of Stanton, North Dakota.

"(2) MERCER COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, County FAS Route 2927 from 4 miles north of Hazen, North Dakota north 8 miles to Hazen Bay, Lake Sakakawea or from 4 miles north of Hazen, North Dakota then 8 miles north to the intersection of North Dakota 1806; then east to the intersection of North Dakota 200; then south 5 miles to Mercer County, Route 37; then in a southeasterly direction approximately 10 miles to the north corporate limits of the City of Stanton, North Dakota.

"(3) MERCER COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, County FAS Route 2927 from 4 miles north of Hazen, North Dakota, north 8 miles to Hazen Bay, Lake Sakakawea, or 7 miles north of the junction with North Dakota 200 and 200 A; then east 3 miles, south 2 miles, east 2 miles, and south 3 miles to the north corporate limits of the City of Stanton, North Dakota.

"(4) MERCER COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, County FAS Route 2927, from 4 miles north of Hazen, North Dakota, north 8 miles to Hazen Bay, Lake Sakakawea, or Knife River Indian Village Historic Site access road.".

SEC. 342. The Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by inserting at the end of section 149 a new subsection to read as follows:

"The State of North Dakota may elect to utilize the total amount of funds authorized for such State under section 149 (b) and (d) in any given year for any project or projects in the State of North Dakota as authorized under section 149. The total amount of Federal funds obligated for any project under section 149 shall not exceed the total 5 year authorization for such project.".

SEC. 343. (a) Notwithstanding any other provision of law, the Secretary of Transportation shall provide not to exceed $20,000,000 out of the emergency relief fund authorized under section 125 of title 23, United States Code, to pay the expenses incurred in the reconstruction or repair of the bridge over Schoharie Creek in the State of New York that is on Interstate Route 90, including any expenses incurred in conducting the investigation of the cause of the collapse of the bridge and the expenses incurred in detouring traffic around the site of the bridge until the reconstruction or repair is completed.

(b) No payment of an expense may be made by reason of subsection (a) if such expense is paid or reimbursed—

(1) under any Federal program other than section 125 of title 23, United States Code, or

(2) under any insurance policy covering the bridge described in subsection (a).

(c) The provisions of section 125 of title 23, United States Code, and any regulations prescribed under such section, regarding the expenditure of funds provided under such section shall apply to any funds provided by reason of subsection (a) to the extent such provisions and regulations are consistent with the provisions and purposes of this joint resolution.

SEC. 344. Section 165 of the Federal-Aid Highway Act of 1987 (Public Law 100–17) relating to a cost effectiveness study of upgrading of Route 219 is amended as follows:

(1) Subparagraph (B) of subsection (a)(1) is amended to read as follows:

"(B) between Springville, New York, and its intersection with the New York-Pennsylvania State line;".

(2) Subsection (b) is amended by striking "1 year" and inserting "18 months".

SEC. 345. Paragraph (72) of section 149(a) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 192) is amended to read as follows:

"(72) DOUGLAS COUNTY, KANSAS.—The Secretary shall carry out a highway project in Douglas County, Kansas, to demonstrate methods of reducing traffic congestion and facilitating the usage by motorists on the Interstate System of recreational facilities by construction of a limited access road of approximately 14 miles in length which, at its western terminus, will provide access from an east-west Interstate highway route to a reservoir and a university research park, will proceed easterly around the southern portion of the City of Lawrence and, at its eastern terminus, will provide access to a business park and a limited access east-west State highway.".

SEC. 346. Section 163(n) of the Federal-Aid Highway Act of 1973 (23 U.S.C. 130 note) is amended by adding "except those railroad-highway crossings segments which are already engaged in or have completed the preparation of the plans, specifications and estimates (PS&E) for the construction of the segment involved shall retain the Federal share as specified in subsection 163(n) as amended by section 134 of the Surface Transportation Assistance Act of 1978.

TECHNICAL AMENDMENTS TO TITLE 23

SEC. 347. (a) SECTION 104.—Section 104(g) of title 23, United States Code, is amended—

(1) in the first sentence by striking out "sections 144, 152, and 153 of this title, or section 203(d) of the Highway Safety Act of 1973," and inserting in lieu thereof "sections 130, 144, and 152 of this title"; and

(2) by striking out the third sentence.

(b) SECTION 119.—Section 119(f)(2)(B) of such title is amended by striking out "equal to" and inserting in lieu thereof "not to exceed".

(c) SECTION 127.—Section 127(a) of such title is amended by striking out "September 1, 1988" each place it appears and inserting in lieu thereof "September 1, 1989".

(d) SECTION 129.—(1) Section 129(j)(1) of such title is amended by striking out "(7)" and inserting in lieu thereof "(8)".

(2) Section 129(j)(3) of such title is amended—

(A) by striking out "(7)" and inserting in lieu thereof "(8)";

(B) by striking out "State of Pennsylvania" and inserting in lieu thereof "States of Pennsylvania and West Virginia";

(C) by inserting "State of Georgia," after "State of Florida,"; and

(D) by adding at the end thereof the following new sentence: "The toll facility in Orange County, California, may be located in more than 1 highway corridor to relieve congestion on existing interstate routes in such County.".

TECHNICAL AMENDMENTS TO SURFACE TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT

SEC. 348. (a) SECTION 134.—Section 134 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (23 U.S.C. 202 note) is amended by striking out "and 1990," and inserting in lieu thereof "1990, and 1991,".

(b) SECTION 149(a).—(1) Section 149(a)(5)(B) of such Act is amended—

(A) by striking out "reconstructing 2" and inserting in lieu thereof "rehabilitating 3"; and

(B) by striking out "and Bagley" and inserting in lieu thereof ", Bagley, and Shevlin".

(2) Section 149(a)(15) of such Act is amended by striking out "a highway project for construction of a grade separation on a route" and inserting in lieu thereof "highway projects for construction of grade separations on routes".

(3) Section 149(a)(16) of such Act is amended by striking out "project to demonstrate" and all that follows through "the effectiveness" and inserting in lieu thereof "projects to demonstrate methods by which railroad relocation and construction of grade separations for railroad crossings of highways and streets enhances urban redevelopment".

(4) Section 149(a)(46) of such Act is amended—

(A) by inserting "and Andover" after "in Lawrence"; and

(B) by striking out "under construction" and all that follows through the period at the end of such section and inserting in lieu thereof "by providing access between an interstate route and Merrimack Street.".

(5) Section 149(a)(81) of such Act is amended by inserting "(A)" after "carry out" and by inserting "and (B) construction of such project," after "Florida,".

(6) Section 149(a)(102) of such Act is amended by striking out "for the design and site location".

(7) Section 149(a)(121) of such Act is amended by striking out "Virginia" and inserting in lieu thereof "Virginia)" and by striking out "Service)" and inserting in lieu thereof "Service".

(c) SECTION 149(b).—(1) Section 149(b)(57) of such Act is amended by striking out "land acquisition under".

(2) Section 149(b)(64) of such Act is amended by striking out "preliminary engineering and design under".

(3) Section 149(b)(70) of such Act is amended by striking out "preliminary engineering and design under".

(d) SECTION 149(i).—

(1) AMENDMENT.—Section 149(i) of such Act is amended by adding at the end thereof the following new sentence: "50 percent of the funds allocated under subsections (b) and (d) to carry out subsection (a)(104) shall be allocated to the State of Nebraska, and the other 50 percent of such funds shall be allocated to the State of Iowa.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect April 2, 1987.

(e) SECTION 149(k).—Section 149(k)(2) of such Act is amended by striking out "104(b)(5)(A))" and inserting in lieu thereof "subsection (b)(5)(A))".

(f) SECTION 167.—Section 167(b) of such Act is amended by striking out "9 months" and inserting in lieu thereof "3 years".

(g) SECTION 202.—Section 202(c) of such Act is amended by striking out "(a)(3)" and inserting in lieu thereof "(a)(1)".

(h) SECTION 208.—Section 208(a) of such Act is amended by striking out "Not later than 30 months after the date of the enactment of this Act, the" and inserting in lieu thereof "The".

CUMBERLAND GAP

SEC. 349. Section 104(a)(8) of the Federal-Aid Highway Act of 1978 is amended by adding at the end thereof the following new sentence: "Funds may be appropriated under an authorization contained in this paragraph in the fiscal year authorized and any fiscal year thereafter.".

HIGHWAY FEASIBILITY STUDIES

SEC. 350. (a) ILLINOIS AND MISSOURI.—The Secretary of Transportation, in cooperation with the States of Illinois and Missouri, shall study the feasibility and necessity of constructing a toll expressway between Chicago, Illinois, and Kansas City, Missouri.

(b) ALABAMA.—The Secretary of Transportation shall study the feasibility and necessity of completing a beltway around the city of Birmingham, Alabama.

(c) FEDERAL SHARE.—The Federal share of the cost of conducting each study under this section shall be 65 percent.

(d) REPORTS.—Not later than 1 year after the date of the enactment of this section, the Secretary of Transportation shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the studies conducted under this section.

(e) AMENDMENTS TO NEW YORK FEASIBILITY STUDY.—Section 168 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended—

(1) by inserting at the end of subsection (a) the following new sentence: "Such study shall include environmental assessment, economic analysis, economic impact, engineering, and rail rationalization studies."; and

(2) in subsection (c) by striking out "one year" and inserting in lieu thereof "2 years".

EXEMPTION FROM CERTAIN PROCEDURAL REQUIREMENTS

SEC. 351. Notwithstanding any other provision of law, the withdrawal of Interstate Route I-420 in the State of Georgia shall be exempt from the procedural requirements of section 103(e)(4) of title 23, United States Code, including the regulations issued under such section.

HIGHWAY WIDENING DEMONSTRATION PROJECT

SEC. 352. (a) PROJECT DESCRIPTION.—The Secretary of Transportation is authorized to carry out a demonstration project to improve United States Route 202 between I-76 and Pennsylvania State Route 252 in the vicinity of King of Prussia, Pennsylvania.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $19,000,000 to carry out this section. Any funds appropriated pursuant to this section shall remain available until expended and shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs.

(c) FEDERAL SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 80 percent.

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1988".

[*Total, Department of Transportation and Related Agencies Appropriations, 1988:*

[*New budget (obligational) authority*	*$10,623,055,000.*]
[*By transfer*	*32,897,000.*]
[*Limitation on general operating expenses*	*206,736,000.*]
[*Limitation on administrative expenses*	*2,016,000.*]
[*Limitation on borrowing authority*	*57,000,000.*]
[*Limitation on obligations*	*14,490,455,000.*]
[*Limitation on cumulative obligations*	*4,750,000.*]
[*Limitation on working capital fund*	*127,801,000.*]
[*Limitation on direct loans*	*45,457,000.*]
[*Appropriations to liquidate contract authorizations*	*15,780,400,000.*]

(m) Such amounts as may be necessary for programs, projects or activities provided for in the Treasury, Postal Service and General Government Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriation. Act, as follows:

(Treasury, Postal Service, and General Government Appropriations Act, 1988)

AN ACT

Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $22,000 for official reception and representation expenses; not to exeeed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and

to be accounted for solely on his certificate; not to exceed $573,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; $55,681,000. $55,681,000

INTERNATIONAL AFFAIRS

For necessary expenses of the international affairs function of the Office of the Secretary, hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; and not to exceed $73,000 for official reception and representation expenses; $23,422,000. 23,422,000

[*Total, Office of the Secretary, $79,103,000.*]

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed eight for police-type use); and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; not to exceed $3,000,000 for major maintenance and facility improvements, and related equipment for the Federal Law Enforcement Training Center facility to remain available until expended; not to exceed $200,000 for the development of a Master Plan for future land and facility use at Glynco, Georgia, to remain available until expended; not to exceed $5,000 for official reception and representation expenses; and services as authorized by 5 U.S.C. 3109: *Provided,* That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; acceptance of gifts; training of private sector security officials on a space available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center: *Provided further,* That the Federal Law Enforcement Training Center shall hire and maintain an average of not less than 325 direct full-time equivalent positions for fiscal year 1988: *Provided further,* That the new residential facility at the Federal Law Enforcement Training Center at Glynco, Georgia, shall be designated as the "Aubrey A. 'Tex' Gunnels Dormitory Complex"; $28,672,000. 28,672,000

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $265,000,000, of which not to exceed $7,213,000 shall remain available until expended for systems modernization initiatives. 265,000,000

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed five hundred vehicles for police-type use for replacement only; and hire of passenger motor

vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; not to exceed $5,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement; provision of laboratory assistance to State and local agencies, with or without reimbursement; $217,531,000, of which $15,000,000 shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1988, and of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2): *Provided,* That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipts and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Federal Register, volume 43, number 55, of March 21, 1978: *Provided further,* That none of the funds appropriated herein shall be available for explosive identification or detection tagging research, development, or implementation: *Provided further,* That not to exceed $300,000 shall be available for research and development of an explosive identification and detection device: *Provided further,* That funds made available under this Act shall be used to maintain a base level of 3,451 full-time equivalent positions for fiscal year 1988. $217,531,000

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to seven hundred motor vehicles for replacement only, including six hundred eighty for police-type use and commercial operations; for additional purchase of up to two hundred fifty new passenger motor vehicles for police-type use and commercial operations; hire of passenger motor vehicles; not to exceed $10,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; $966,000,000, of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, and not to exceed $4,000,000, to remain available until expended, for research: *Provided,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further,* That the Commissioner or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service: *Provided further,* That none of the funds made available by this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program: *Provided further,* That none of the funds made available by this Act shall be available for administrative expenses to reduce the number of Customs Service regions below seven during fiscal year 1988: *Provided further,* That the United States Customs Service shall hire and maintain an average of not less than 16,099 full-time equivalent positions in fiscal year 1988: *Provided further,* That none of the funds made available in this or any other Act may be used to fund more than nine hundred positions in the Headquarters staff of the United States Customs Service in the fiscal year ending September 30, 1988: 966,000,000

Provided further, That no funds appropriated by this Act may be used to reduce to single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1988: *Provided further,* That not less than $300,000 shall be expended for additional part-time and temporary positions in the Honolulu Customs District: *Provided further,* That $600,000 shall be available only for the purchase of 6 additional mobile X-Ray Systems for the United States Customs Service.

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (transfer or acquisition from any other agency), operation and maintenance of aircraft, and other related equipment of the Air Program; $140,000,000 to remain available until expended, of which $2,000,000 shall be available for construction of a hangar and administrative complex for the Customs Aviation Branch located in Albuquerque, New Mexico: *Provided,* That no aircraft or other related equipment, shall be transferred on a permanent basis to any other Federal agency, Department, or office outside of the Department of the Treasury during fiscal year 1988. $140,000,000

CUSTOMS FORFEITURE FUND

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the Customs Forfeiture Fund, not to exceed $10,000,000, as authorized by Public Law 98–473 and Public Law 98–573; to be derived from deposits in the Fund. 10,000,000

CUSTOMS SERVICES AT SMALL AIRPORTS

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $486,000, for expenses for the provision of Customs services at certain small airports designated by the Secretary of the Treasury, including expenditures for the salaries and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the Treasury pursuant to section 236 of Public Law 98–573 for each of these airports, and to remain available until expended. 486,000

[*Total, U.S. Customs Service, $1,116,486,000.*]

PAYMENT TO THE GOVERNMENT OF PUERTO RICO

For payment of a grant to the Government of Puerto Rico, $7,800,000 to remain available until expended, for the purchase and installation of an aerostat radar drug interdiction surveillance system. 7,800,000

UNITED STATES MINT

SALARIES AND EXPENSES

For necessary expenses of the United States Mint; $42,000,000, of which $965,000 shall remain available until expended for research and development projects and of which $75,000 may be used to host the International Mint Directors' Conference in the United States in 1988, including but not limited to reception and representation expenses: *Provided,* That such fees as are collected from participants at the International Mint Directors' Conference shall be merged with and credited to this account, notwithstanding the provisions of 31 U.S.C. 3302. 42,000,000

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States; $215,000,000. $215,000,000

PAYMENT OF GOVERNMENT LOSSES IN SHIPMENT

For payment of Government losses in shipment, in accordance with section 2 of the Act approved July 8, 1937 (40 U.S.C. 722) $400,000, to remain available until expended. 400,000

INTERNAL REVENUE SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Internal Revenue Service, not otherwise provided; for executive direction and management services, and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $87,165,000, of which not to exceed $25,000 for official reception and representation expenses and of which not to exceed $500,000 shall remain available until expended, for research. 87,165,000

PROCESSING TAX RETURNS

For necessary expenses of the Internal Revenue Service not otherwise provided for; including processing tax returns; revenue accounting; computer services; and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,691,076,000, of which not to exceed $80,000,000 shall remain available until expended for systems modernization initiatives: *Provided,* That of the total amount appropriated under this heading, $17,800,000 shall be available for the Statistics of Income Program in fiscal year 1988. 1,691,076,000

EXAMINATIONS AND APPEALS

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; employee plans and exempt organizations; tax litigation; hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,849,581,000. 1,849,581,000

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

For necessary expenses of the Internal Revenue Service for investigation and enforcement activities; including purchase (not to exceed four hundred and fifty-one for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); securing unfiled tax returns; collecting unpaid accounts; examining selected employment and excise tax returns; technical rulings; enforcement litigation; providing assistance to taxpayers; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner: *Provided,* That notwithstanding any other provision of this Act, none of the funds made available by this Act shall be used to reduce the number of positions allocated to taxpayer service activities below fiscal year 1984 levels, or to reduce the number of positions allocated to any other direct taxpayer assistance functions below fiscal year 1984 levels, including, but not

limited to Internal Revenue Service toll-free telephone tax law assistance and walk-in assistance available at Internal Revenue Service field offices: *Provided further,* That the Internal Revenue Service shall fund the Tax Counseling for the Elderly Program at $2,650,000. The Internal Revenue Service shall absorb within existing funds the administrative costs of the program in order that the full $2,650,000 can be devoted to program requirements; $1,431,058,000. $1,431,058,000

[*Total, Internal Revenue Service, $5,058,880,000.*]

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 4 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation.

SEC. 2. Not to exceed 15 per centum, or $15,000,000, whichever is greater, of any appropriation made available to the Internal Revenue Service for document matching for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation for document matching.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; the conducting of and participating in firearms matches and presentation of awards and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided,* That approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $12,500 for official reception and representation expenses; for payment in advance for commercial accommodations as may be necessary to perform protective functions in fiscal year 1988; and for uniforms without regard to the general purchase price limitation for the current fiscal year; $367,000,000, of which $5,000,000 shall remain available until expended for continued construction at the James J. Rowley Secret Service Training Center, and of which $29,911,000 shall be available for Presidential candidate protective activities pursuant to 18 U.S.C. 3056(a)(7). 367,000,000

DEPARTMENT OF THE TREASURY—GENERAL PROVISIONS

SECTION 101. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of

State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

SEC. 102. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communication in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 103. Not to exceed 2 per centum of any appropriations in this title for the Department of the Treasury may be transferred between such appropriations. However, no such appropriation shall be increased or decreased by more than 1 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 104. None of the funds made available by this title may be used to place the United States Secret Service, the United States Customs Service, or the Bureau of Alcohol, Tobacco, and Firearms under the operation, oversight, or jurisdiction of the Inspector General of the Department of the Treasury.

SEC. 105. The Department of the Treasury shall undertake a study analyzing the economic impact and administrative complexity resulting from section 453C of the Internal Revenue Code, and recommending revenue-neutral alternatives to this section which would minimize that impact and complexity. The study shall also analyze the impact of the effective date of section 453C on fiscal year taxpayers. The study shall be completed as soon as practicable but no later than August 15, 1988.

SEC. 106. Section 613a of the Tariff Act of 1930, as amended (19 U.S.C. 1613b) is amended by inserting the following between subsection (a)(5)(iv) and subsection (b):

> "(v) the equipping for law enforcement functions of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in joint law enforcement operations with the Customs Service.
>
> "(vi) the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint operations with the Customs Service.".

This title may be cited as the "Treasury Department Appropriations Act, 1988".

[*Total, title I, Department of the Treasury, new budget (obligational) authority, $7,397,872,000.*]

TITLE II—UNITED STATES POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsection (c) of section 2401 of title 39, United States Code; $517,000,000: *Provided,* That mail for overseas voting and mail for the blind shall continue to be free: *Provided further,* That six-day delivery and rural delivery of mail shall continue at the 1983 level: *Provided further,* That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child $517,000,000

support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further,* That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1988.

PAYMENT TO THE POSTAL SERVICE FUND FOR NONFUNDED LIABILITIES

For payment to the Postal Service Fund for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund pursuant to 39 U.S.C. 2004, $1,000. $1,000

UNITED STATES POSTAL SERVICE—ADMINISTRATIVE PROVISIONS

SECTION 1. None of the funds appropriated in this Act or made available by 39 U.S.C. 2401(a) shall be used by the United States Postal Service or any other governmental agency for the purpose of locating a regional mail distribution center in the Westchester Business Park on Westpark Drive in the Town of North Castle, New York, for a period of one hundred and eighty days.

SEC. 2. Funds made available to the United States Postal Service pursuant to section 2401(a) of title 39, United States Code, shall be used hereafter to continue full postal service to the people of Holly Springs proper, including upgrading, remodeling, and improving the United States Post Office building located at 110 North Memphis Street, Holly Springs, Mississippi.

This title may be cited as the "Postal Service Appropriation Act, 1988".

[*Total, title II, United States Postal Service, new budget (obligational) authority, $517,001,000.*]

TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided,* That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: *Provided further,* That none of the funds made available for official expenses shall be considered as taxable to the President. 250,000

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration; $16,000,000 including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles. 16,000,000

WHITE HOUSE CONFERENCE FOR A DRUG FREE AMERICA

SALARIES AND EXPENSES

For necessary expenses of the White House Conference for a Drug Free America, $2,500,000. 2,500,000

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $20,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $26,426,000. $26,426,000

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $7,403,000, of which $2,400,000 for the repair of the face of the Executive Residence shall remain available until expended, to be expended and accounted for as provided by 3 U.S.C. 105, 109-110, 112-114. 7,403,000

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $75,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $258,000: *Provided,* That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities. 258,000

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $2,163,000. 2,163,000

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021); $2,500,000. 2,500,000

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $3,000,000. 3,000,000

NATIONAL CRITICAL MATERIALS COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Critical Materials Council, including activities as authorized by Public Law 98-373; $350,000. $350,000

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; $5,000,000. 5,000,000

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; $39,000,000 of which not to exceed $4,500,000 shall be available to carry out the provisions of 44 U.S.C., chapter 35: *Provided,* That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further,* That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further,* That none of the funds made available for the Office of Management and Budget by this Act may be expended for the review of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: *Provided further,* That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs: *Provided further,* That none of the funds made available by this Act or any other Act shall be used to reduce the scope or publication frequency of statistical data relative to the operations and production of the alcoholic beverage and tobacco industries below fiscal year 1985 levels: *Provided further,* That none of the funds appropriated by this Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with section 205, title 27 of the United States Code (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder. 39,000,000

OFFICE OF FEDERAL PROCUREMENT POLICY

SALARIES AND EXPENSES

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109; $2,300,000. 2,300,000

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000. 1,000,000

This title may be cited as the "Executive Office Appropriations Act, 1988"

[*Total, title III, Executive Office of the President, new budget (obligational) authority, $108,150,000.*]

TITLE IV—INDEPENDENT AGENCIES

Administrative Conference of the United States

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.) including not to exceed $1,000 for official reception and representation expenses; $1,865,000. $1,865,000

Advisory Commission on Intergovernmental Relations

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended, 42 U.S.C. 4271–79; $1,378,000, and additional amounts not to exceed $200,000, collected from the sale of publications shall be credited to and used for the purposes of this appropriation. 1,378,000

Advisory Committee on Federal Pay

SALARIES AND EXPENSES

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306; $200,000. 200,000

Committee for Purchase From the Blind and Other Severely Handicapped

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92–28, $850,000. 850,000

Federal Election Commission

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended, $14,174,000. 14,174,000

GENERAL SERVICES ADMINISTRATION

Federal Buildings Fund

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Government agencies (including space adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned

buildings, including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract, in the aggregate amount of $2,854,052,000 of which (1) not to exceed $115,036,000 shall remain available until expended for construction of additional projects at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

$115,036,000 (limitation)

New Construction:

Arizona:

Tucson, Federal Law Enforcement Building, Site acquisition only, $1,500,000

District of Columbia:

International Cultural and Trade Center, Design, $3,700,000 (to be transferred to the Pennsylvania Avenue Development Corporation for reimbursement)

Louisiana:

Baton Rouge, Federal Building and Courthouse, Design, $3,000,000

Michigan:

Detroit, Ambassador Bridge Cargo Inspection Facility, Site, $3,800,000

New Jersey:

Camden, Federal Building, Courthouse Annex, Site and Design, $1,486,000

Virgin Islands:

St. Croix, Federal Building, Courthouse, Site, $550,000

Construction Projects, less than $500,000, $1,000,000.

Other Selected Purchases including options to purchase, $100,000,000: *Provided,* That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further,* That all funds for direct construction projects shall expire on September 30, 1989, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further,* That claims against the Government of less than $50,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed $472,945,000 which shall remain available until expended, for repairs and alterations: *Provided further,* That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

472,945,000 (limitation)

Repairs and Alterations:

Alabama:

Birmingham, Federal Building, Courthouse, $3,899,000

California:

Fresno, Sisk Federal Building, Courthouse, $2,879,000

Los Angeles, Federal Building, $10,422,000

San Francisco, Federal Building, Courthouse, $16,962,000

District of Columbia:
Central Heating Plant, $15,500,000
West Heating Plant, $9,201,000
Elevator Replacement, $26,700,000
Forrestal Building, $2,578,000
GSA Regional Office Building, $1,036,000
Agriculture Administration Building, $530,000
Agriculture South Building, $3,360,000
Courthouse, $1,887,000
Perkins Federal Building, $1,644,000
GSA Headquarters, $929,000
Hoover Federal Building, $1,627,000
Department of the Interior, $1,858,000
New Post Office, $1,006,000
Veterans Administration, $1,355,000
Florida:
Miami, Federal Building, $11,481,000
West Palm Beach, Post Office, $2,900,000
Georgia:
Atlanta, Federal Annex, $2,400,000
East Point, Federal Archives and Records Center, $1,102,000
Illinois:
Chicago, Dirksen Federal Building, Courthouse $7,334,000
East St. Louis, Post Office, Courthouse, $3,762,000
Iowa:
Des Moines, Federal Building, $1,300,000
Louisiana:
New Orleans, F. Edward Hébert Federal Building, $12,525,000
Maryland:
Baltimore, Appraisers Stores, $2,668,000
Bethesda, Federal Building, $700,000
Massachusetts:
Boston, McCormack Post Office, Courthouse, $2,200,000
Missouri:
St. Louis, Mart Federal Building, $28,964,000
St. Louis, Federal Center #104, $8,983,000
New Jersey:
Trenton, Post Office, Courthouse, $2,823,000
New York:
Brooklyn, Federal Building No. 2, $11,472,000
New York, Foley Square Courthouse, $4,655,000
New York, 201 Varick Street, $14,475,000
North Carolina:
Raleigh, Federal Building, Post Office, Courthouse, $9,640,000
Pennsylvania:
Philadelphia, Byrne Courthouse, $6,875,000
Pittsburgh, Post Office, Courthouse, $16,572,000
Texas:
San Antonio, Post Office, Courthouse, $8,154,000
Virginia:
Arlington, Federal Building No. 2, $4,080,000
Arlington, Pentagon, $8,080,000
Minor Repairs and Alterations, $167,427,000
Capital Improvements of United States-Mexico Border Facilities:
Nogales, AZ
Mariposa, $174,330
Grand Ave., $375,310
Morley Gate, $64,000

Calexico, CA
- New Station, $1,000,000
- New Dock/Office, $411,320
- R&A, $274,430

El Paso, TX
- Ysleta, $2,651,320
- Bridge of the Americas, $442,200
- Paso del Norte, $2,850,000

Laredo, TX
- Juarez-Lincoln Bridge, $5,745,000
- Replace RR Bldg., $118,000
- Convent St., $151,710

Brownsville, TX
- Gateway:
  - Security, $14,661
  - Expand Lanes, $46,135
  - R&A, $67,204
- B&M Bridge, $1,173,000
- Los Indios Bridge, $510,000

San Ysidro/Otay Mesa, CA
- Virginia St., $75,000
- Safety Work, $1,601,000
- R&A, $612,000
- Improve Commercial Lot, $456,950
- Firearms Range, $350,000
- Reconfigure Lanes, $310,000
- Signs/Security, $517,000

Andrade, CA, $143,000
Antelope Wells, NM, $14,000
Columbus, NM, $100,000
Fabens, TX, $100,000
Fort Hancock, TX, $100,000
Lukeville, AZ, $148,000
Marathon, TX, $50,000
Naco, AZ, $65,000
Presidio, TX, $100,000
Progresso, TX, $100,000
Roma, TX, $100,000
San Luis, AZ, $79,000

Del Rio, TX
- Expand Lanes, $270,000
- Security, $250,000
- Replace Station, $3,640,000

Los Ebanos, TX, $520,000
Douglas, AZ, $228,000
Eagle Pass, TX, $480,000
Rio Grande City, TX, $510,000
Tecate, CA, $338,000
Hildago, TX, $289,510
Falcon Dam, TX, $400,000
Santa Teresa, NM, $663,000:

Provided, That by no later than July 30, 1988, the Administrator of General Services shall assess the level of unobligated balances, if any, in the Federal Buildings Fund and request reprogramming of such balances, not to exceed $12,000,000, to provide additional funding for the United States-Mexico Border Facility projects in this Act: *Provided further,* That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That all funds for repairs and alterations prospectus projects shall expire on Septem-

ber 30, 1989, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed $133,105,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed $1,169,532,000 for rental of space; (5) not to exceed $805,384,000 for real property operations; (6) not to exceed $48,014,000 for program direction and centralized services; and (7) not to exceed $110,036,000 for design and construction services which shall remain available until expended: *Provided further,* That the Administrator of General Services is hereby directed to enter into a contract for construction of a building in Oakland, California, on a site donated by the city of Oakland. The contract shall provide, by lease or installment payments over a period not to exceed 30 years, for the payment of the purchase price, which shall not exceed $141,700,000, and reasonable interest thereon. The contract shall further provide that title to the building shall vest in the United States at or before the expiration of the contract term upon fulfillment of the terms and conditions of the contract: *Provided further,* That the Administrator of the GSA is hereby directed to enter into an agreement, pursuant to a competitive selection process, for the lease-purchase of a building in San Francisco, California, during fiscal year 1988 of approximately 430,000 office occupiable square feet on a site donated by that city: *Provided further,* That the agreement shall provide for annual lease or installment payments from funds available for the rental of space in the Federal Buildings Fund over a period not to exceed 30 years for the payment of the purchase price of such building, and shall provide for title to the building to vest in the United States on or before the expiration of the contract term upon fulfillment of the terms and conditions of the agreement: *Provided further,* That additional space may be acquired if the Administrator finds such space to be in the public interest and will not reduce the occupiable Federal space to be available in the Oakland Federal Building. The Oakland Building shall, when completed be fully occupied by federal agencies and continued full occupancy shall have the highest priority consistent with the Federal interest: *Provided further,* That for the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S.C. 490), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further,* That none of the funds available to the General Services Administration with the exception of those for Capital Improvements for United States-Mexico Border Facilities; Other Approved Border Facility projects; and the San Francisco, California Federal building project, shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further,* That notwithstanding any other provision of law, the Administrator of General Services is authorized, under section 210(h) of the Federal Property and Administrative Services Act of 1949, to acquire the building in Chicago, Illinois, approved under this heading in fiscal year 1987, from any commercial or private entity, through a lease to ownership transaction. Said lease shall not exceed 30 years, on such terms and conditions as he deems appropriate. These terms

$133,105,000 (limitation)
1,169,532,000 (limitation)
805,384,000 (limitation)
48,014,000 (limitation)
110,036,000 (limitation)

and conditions may include an option to permit the Federal Government, if the Administrator deems that it is in the best interest of the Federal Government, to execute a succeeding lease: *Provided further,* That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That not later than 60 days after the date of the enactment of this Act, the Administrator of General Services shall submit under the Public Buildings Act of 1959, a prospectus for acquiring by purchase or lease-purchase (1) a building which is not to exceed 1,400,000 occupiable square feet for the Environmental Protection Agency in the Washington metropolitan area, and (2) a building which is not to exceed 1,800,000 occupiable square feet for the Department of Transportation. The lease-purchase shall provide for annual lease or installment payments from funds available for the rental of space in the Federal Buildings Fund over a period not to exceed 30 years for the payment of the purchase price of such building and reasonable interest thereon and shall provide for title to the building to vest in the United States on or before the last day of the term of the lease-purchase transaction. If a lease-purchase prospectus for a building described in this paragraph is approved under the Public Buildings Act of 1959, the Administrator of General Services may enter into a transaction for the lease-purchase of such building in accordance with the terms specified in such approved prospectus and applicable provisions of law and may make annual lease or installment payments from funds available for the rental of space in such fund: *Provided further,* That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided further,* That revenues and collections and any other sums accruing to this fund during fiscal year 1988 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $2,854,052,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriation Acts.

[*Total, Federal Buildings Fund (limitations), $2,854,052,000.*]

Federal Supply Service

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for property management activities, utilization of excess and disposal of surplus personal property, rehabilitation of personal property, transportation management activities, transportation audits by in-house personnel, procurement, and other related supply management activities through September 30, 1988, and supply distribution (including contractual services incident to receiving, handling and shipping supply items), procurement (including royalty payments), inspection, standardization, and related supply operations activities not later than March 31, 1987, including services as authorized by 5 U.S.C. 3109; $69,600,000: *Provided,* That notwithstanding any other provisions of law, costs incurred during the period October 1, 1987, through March 31, 1987, directly related to supply operations activities, not covered by this appropriation, shall be recorded as costs in the General Supply Fund, General Services Administration: *Provided further,* That the annual limitation of $69,600,000

$5,200,000 through September 30, 1989, in the Supplemental Appropriations Act, 1985, Public Law 99-88, payable from overcharges collected, for expenses of transportation audit contracts and contract administration, is hereby superseded by Public Law 99-627 establishing permanent authority for these expenses at not to exceed 40 percent of the overpayments collected annually.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property, the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.) including services as authorized by 5 U.S.C. 3109 and reimbursement for recurring security guard service; $12,000,000 to be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-5), and in addition, $30,000,000 for the transportation, processing, refining, storage, security, maintenance, rotation, and disposal of materials contained in or acquired for the stockpile by reimbursement from the National Defense Stockpile Transaction Fund.

$12,000,000

30,000,000 (by transfer)

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

SECTION 1. During the fiscal year ending September 30, 1988, not to exceed $35,000,000, in addition to amounts previously appropriated, all to remain available until expended, may be obligated from amounts in the National Defense Stockpile Transaction Fund, for the acquisition and upgrading of strategic and critical materials under section 6(a) (1) and (3) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a) (1) and (3)), transportation, storage, and other incidental expenses related to such acquisition and upgrades, development of current specifications of stockpile materials and the upgrading of existing stockpile materials to meet current specifications (including transportation, when economical, related to such upgrading), testing and quality studies of stockpile materials, studying future material and mobilization requirements for the stockpile and other reasonable requirements for management of the stockpile, including relocation, operating, and management expenses incident to operating the stockpile, are hereby authorized to the extent provided in Appropriations Acts.

35,000,000 (limitation on administrative expenses)

SEC. 2. For the fiscal year ending September 30, 1988, in addition to the funds previously appropriated for the National Defense Stockpile Transaction Fund, notwithstanding the provisions of 50 U.S.C. 98h, there are hereby appropriated $10,000,000 under this heading and $9,000,000 in section 101(b) of this joint resolution, to remain available until expended, the amounts to be allocated for the following projects:

10,000,000

9,000,000 (by transfer)

University of Hawaii at Manoa pursuant to 50 U.S.C. 98a and 98g(a), for a grant for construction of a strategic materials research facility, $5,000,000;

University of Utah pursuant to 50 U.S.C. 98a and 98g(a)(2)(C) for a grant to pay the Federal share of the cost of construction and equipment for a Center for Biomedical Polymers, $4,000,000;

University of Massachusetts at Amherst pursuant to 50 U.S.C. 98a and 98g(a) for a grant for continued construction of a strategic materials research facility, $5,000,000;

University of Arizona pursuant to 50 U.S.C. 98a and 98g(a)(2)(C) for a grant to pay the Federal share of the cost of construction and equipment for a Center for Advanced Studies for Copper Recovery and Utilization, $4,000,000; and

University of New Mexico pursuant to 50 U.S.C. 98 a and g for a grant to study replacements for metallic alloys that use critical materials, $1,000,000.

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of agency management of activities under the control of the General Services Administration, and general administrative and staff support services not otherwise provided for; for providing accounting, records management, and other support incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109; $122,500,000, of which $800,000 shall be available only for, and is hereby specifically earmarked for personnel and associated costs in support of Congressional District and Senate State offices: *Provided*, That this appropriation shall be available, subject to reimbursement by the applicable agency, for services performed for other agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code. $122,500,000

REAL PROPERTY RELOCATION

For expenses not otherwise provided for, $5,000,000, to remain available until expended, necessary for carrying out the functions of the Administrator with respect to relocation of Federal agencies from property which has been determined by the Administrator to be other than optimally utilized under the provisions of section 210(e) of the Federal Property and Administrative Services Act of 1949, as amended: *Provided*, That such relocations shall only be undertaken when the estimated proceeds from the disposition of the original facilities approximate the appraised fair market value of such new facilities and exceed the estimated costs of relocation. Relocation costs include expenses for and associated with acquisition of sites and facilities, and expenses of moving or repurchasing equipment and personal property. These funds may be used for payments to other Federal entities to accomplish the relocation functions: *Provided further*, That nothing in this paragraph shall be construed as relieving the Administrator of General Services or the head of any other Federal agency from any obligation or restriction under the Public Buildings Act of 1959 (including any obligation concerning submission and approval of a prospectus), the Federal Property and Administrative Services Act of 1949, as amended, or any other Federal law, or as authorizing the Administrator of General Services or the head of any other Federal agency to take actions inconsistent with statutory obligations or restrictions placed upon the Administrator of General Services or such agency head with respect to authority to acquire or dispose of real property. 5,000,000

INFORMATION RESOURCES MANAGEMENT SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; and for the Information Security Oversight Office established pursuant to Executive Order 12356; $31,193,000. $31,193,000

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General; $24,334,000: *Provided,* That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property. 24,334,000

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138; $1,198,000: *Provided,* That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts. 1,198,000

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SECTION 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. Not to exceed 1 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 4. Funds in the Federal Buildings Fund made available for fiscal year 1988 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 5. Funds hereafter made available to the General Services Administration for the payment of rent shall be available for the purpose of leasing, for periods not to exceed thirty years, space in buildings erected on land owned by the United States.

SEC. 6. The Bureau of Mines should completely vacate all space at the Columbia Plaza building no later than September 30, 1988. In the event that it becomes necessary to acquire leased space for the Bureau of Mines, the Administrator of General Services shall competitively acquire space for the Bureau of Mines and select quality space at the lowest possible cost in the Washington Metropolitan Area. If such space is acquired by GSA, the Bureau of Mines shall immediately relocate to the space acquired by the GSA.

SEC. 7. (a) The General Accounting Office shall, within 60 days after the date of enactment of this Act, submit an estimate of the

fair market value of the main post office in Denver, Colorado, located at 1823 Stout Street to the General Services Administration, the Congress of the United States, the United States Postal Service, and the Administrative Office of the United States Courts.

(b) Within 30 days after obtaining the estimate made pursuant to subsection (a) the United States Postal Service shall transfer the use and benefit of the lot on which the main post office in Denver is located along with such post office building, improvements and any other structures on such lot to the General Services Administration, and from such date such lot and structures shall be considered to be held for the use and benefit of the United States courts for the Tenth Circuit.

(c) In making the transfer pursuant to subsection (b), the General Services Administration and the United States Postal Service shall use, as the market value of such property, the estimate submitted by the General Accounting Office pursuant to this section and the United States Postal Service shall receive as compensation therefor, the fair market value of such lot, buildings and improvements, as determined by the General Accounting Office.

(d) The United States Postal Service shall surrender possession of the second, third and fourth floors of such post office building to the General Services Administration not later than 1 year after the date of the transfer thereof as provided in this section and, except as provided in subsection (e), shall surrender possession of the balance of such post office building not later than 2 years after such date.

(e) The General Services Administration shall permit the United States Postal Service to continue to occupy such area on the first floor of such main post office building not in excess of 18,000 square feet as shall be determined by the General Services Administration after consultation with the Administrative Office of the United States Courts and the United States Postal Service.

(f) Pursuant to section 210(f) of the Federal Property and Administrative Service Act of 1949, the Administrator of General Services is authorized to charge the United States Postal Service for all space and services furnished to the United States Postal Service in such main post office building after the date of the conveyance provided in this section.

(g) Notwithstanding any other provision of law, the General Services Administration is hereby authorized to sell, at competitive bid, block 111, located at 20th and Curtis Streets in Denver, Colorado, and to deposit such sale proceeds into the Federal Buildings Fund.

(h) There are authorized to be appropriated such sums as are necessary to cover the costs of obtaining such post office building for the courts for the Tenth Circuit. Such costs shall include—

(1) amounts necessary to transfer the lot, main post office building, improvements and any other structures on such lot pursuant to subsection (b);

(2) appropriate renovations of such post office building for the Tenth Circuit to use such building as the principal office of such courts; and

(3) the transfer of such courts from their current building to such post office building.

(i) There are hereby appropriated, out of the Federal Buildings Fund, such sums as may be necessary to carry out the purposes of subsection (h).

SEC. 8. The Administrator of General Services is hereby directed to submit a prospectus to the Congress within 60 days to enable the Administrator to contract for construction of two buildings not to exceed a total of 1,600,000 gross square feet of office space, plus additional parking and retail space, in New York City on sites to be acquired from the city of New York. The contracts shall provide, by lease or installment payments over a period not to exceed 30 years, from funds available for the rental of space in the Federal Buildings

Fund for the payment of the purchase price, and reasonable interest thereon. The contracts shall further provide that title to the buildings shall vest in the United States at or before expiration of the contract term upon fulfillment of the terms and conditions of the contracts. If a lease-purchase prospectus for a building described in this paragraph is approved under the Public Buildings Act of 1959, the Administrator of General Services may enter into a transaction for the lease-purchase of such building in accordance with the terms specified in such approved prospectus and applicable provisions of law and may make annual lease or installment payments from the funds available for the rental of space in such Fund. The General Services Administration shall lease up to 400,000 square feet of office space and associated parking to the city of New York at rates that reflect an appropriate portion of the construction and related costs of the projects, adjusted for the value of the land acquired from the city. In addition, income accrued by the General Services Administration from the outlease of office space to the city as well as retail and related space to private organizations shall be used to offset GSA's installment payments for the cost of the facilities. Obligations of funds under these transactions shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. 1341(a)(1)(B).

SEC. 9. The Administrator of General Services shall proceed with the site selection and design for construction of a facility of not less than 182,000 usable square feet for the Social Security Administration in Wilkes-Barre, Pennsylvania, pursuant to section 115 of the joint resolution entitled, "A Joint Resolution making continuing appropriations for the fiscal year 1987 and for other purposes", approved October 30, 1986 (100 Stat. 3341-49; Public Law 99-591).

[*Total, General Services Administration, $275,825,000.*]

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $116,000,000 of which $4,000,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended, and of which $6,000,000 for design and planning of a new archival facility in Maryland shall remain available until expended. $116,000,000

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; $101,834,000 in 101,834,000

addition to $67,746,000 for administrative expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes: *Provided,* That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C.: *Provided further,* That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further,* That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1988, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

$67,746,000 (limitation on administrative expenses)

REVOLVING FUND

Pursuant to section 4109(d)(1) of title 5, United States Code, costs for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $1,788,931,000, to remain available until expended. 1,788,931,000

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, $4,720,913,000: *Provided,* That annuities authorized by the Act of May 29, 1944, as amended (22 U.S.C. 3682(e)), August 19, 1950, as amended (33 U.S.C. 771-75), may hereafter be paid out of the Civil Service Retirement and Disability Fund 4,720,913,000

[*Total, Office of Personnel Management, $6,611,678,000.*]

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles; $20,957,000, together with not to exceed $1,200,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board. 20,957,000
1,200,000 (limitation on administrative expenses)

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of the Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978 (Public Law 95-454), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $4,673,000 $4,673,000

[*Total, Merit Systems Protection Board, $25,630,000.*]

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $17,576,000: *Provided,* That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government Service, and compensation as authorized by 5 U.S.C 3109. 17,576,000

[*Total, Federal Personnel Activities, $6,654,884,000.*]

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $27,500,000: *Provided,* That travel expenses of the judges shall be paid upon the written certificate of the judge. 27,500,000

This title may be cited as the "Independent Agencies Appropriations Act, 1988".

[*Total, title IV, Independent Agencies:*

[*New budget (obligational) authority* ..... *7,092,676,000.*]
[*By transfer* ..... *39,000,000.*]
[*Limitations* ..... *2,957,998,000.*]

TITLE V—GENERAL PROVISIONS

THIS ACT

SECTION 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans' Administration; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

SEC. 502. No part of any appropriation contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has

left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided,* That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 506. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: *Provided,* That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

SEC. 507. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

SEC. 508. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforcing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits and malt beverages, except if the expenditure of such funds is necessary to comply with a final order of the Federal court system.

SEC. 509. None of the funds appropriated or made available by this Act shall be used to competitively procure electric utility service, except where such procurement is expressly authorized by the Federal Power Act or by State law or regulation.

SEC. 510. None of the funds appropriated in this Act may be used for administrative expenses to close the Federal Information Center of the General Services Administration located in Sacramento, California.

SEC. 511. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. 512. None of the funds made available by this Act shall be available for any activity or for paying the salary of any government employee where funding an activity or paying a salary to a government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. 513. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, out of the Treasury Department.

SEC. 514. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 515. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any member or committee of Congress as described in paragraph (1) of this subsection.

SEC. 516. Except for vehicles provided to the President, Vice President and their families, or to the United States Secret Service, none of the funds provided in this Act to any Department or Agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than twenty-two miles per gallon. The requirements of this section may be waived by the Administrator of the General Services Administration for special purpose or special mission automobiles.

SEC. 517. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverages for abortions.

SEC. 518. The provision of section 517 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

SEC. 519. No later than October 1, 1989, the Administrator of General Services, or any Federal officer assuming the Administrator's responsibilities with respect to management of the stockpile,

shall use all funds authorized and appropriated before January 1, 1985 from the National Defense Stockpile Transaction Fund to evaluate, test, relocate, upgrade or purchase stockpile materials to meet National Defense Stockpile goals and specifications in effect on October 1, 1984.

SEC. 520. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

SEC. 521. None of the funds appropriated by this Act may be used to establish on a permanent basis any test or program of the "port of arrival immediate release and enforcement determination."

SEC. 522. None of the funds appropriated by this Act may be used to solicit bids, lease space, or enter into any contract to close or consolidate executive seminar centers for the Office of Personnel Management.

SEC. 523. None of the funds appropriated by this Act or any other Act in any fiscal year may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing, or disposal of any portion of land on which the Beltsville Agricultural Research Center is located at Beltsville, Maryland, without the specific approval of Congress: *Provided*, That such land may be sold, for fair market value, to the Washington Metropolitan Area Transit Authority and any proceeds from the sale of such land shall be placed in an escrow account to be available hereafter for use in the renovation and restoration of the Beltsville Agricultural Research Center, to be released as specified in advance in appropriations Acts.

SEC. 524. Not later than October 1, 1988, of the amounts made available pursuant to Section 519 of the Treasury, Postal Service and General Government Appropriations Act, 1987, as incorporated in Section 101(m) of Public Laws 99-500 and 99-591, not less than $1,000,000 shall be obligated for a pilot project to upgrade technologically obsolete cobalt deposited in the National Defense Stockpile. The funds used in this section for upgrading shall not exceed $2,000,000.

SEC. 525. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing or disposal of any portion of land on which the Phoenix Indian School is located at Phoenix, Arizona without the specific approval of Congress.

SEC. 526. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas administered by the Corps of Engineers, Department of the Army without the specific approval of Congress.

SEC. 527. The Administrator of General Services, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, shall acquire, by means of a lease of up to 30 years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

SEC. 528. Funds under this Act shall be available as authorized by sections 4501-4506 of title 5, United States Code, when the achievement involved is certified, or when an award for such achievement is otherwise payable, in accordance with such sections. Such funds

may not be used for any purpose with respect to which the preceding sentence relates beyond fiscal year 1988.

SEC. 529. (a) Notwithstanding any other provision of law, during fiscal year 1988, the authority to establish higher rates of pay under section 5303 of title 5, United States Code, may—

(1) in addition to positions paid under any of the pay systems referred to in subsection (a) of section 5303 of title 5, U.S.C., be exercised with respect to positions paid under any other pay system established by or under Federal statute for positions within the executive branch of the Government; and

(2) in addition to the circumstance described in the first sentence of subsection (a) of section 5303 of title 5, U.S.C., be exercised based on—

(A) pay rates for the positions involved being generally less than the rates payable for similar positions held—

(i) by individuals outside the Government; or

(ii) by other individuals within the executive branch of the Government;

(B) the remoteness of the area or location involved;

(C) the undesirability of the working conditions or the nature of the work involved, including exposure to toxic substances or other occupational hazards; or

(D) any other circumstance which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, U.S.C., for purposes of this subparagraph) may identify.

Nothing in paragraph (2) shall be considered to permit the exercise of any authority based on any of the circumstances under such paragraph without an appropriate finding that such circumstance is significantly handicapping the Government's recruitment or retention efforts.

(b)(1) A rate of pay established during fiscal year 1988 through the exercise of any additional authority under subsection (a) of section 5303 of title 5, U.S.C.—

(A) shall be subject to revision or adjustment,

(B) shall be subject to reduction or termination (including pay retention), and

(C) shall otherwise be treated,

in the same manner as generally applies with respect to any rate otherwise established under section 5303 of title 5, United States Code.

(2) The President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subsection) may prescribe any regulations necessary to carry out this subsection.

(c) Any additional authority under this section may, during fiscal year 1988, be exercised only to the extent that amounts otherwise appropriated under this Act for purposes of section 5303 of title 5, United States Code, are available.

SEC. 530. The Director of the Office of Management and Budget shall include in the area designated as the St. Louis Metropolitan Statistical Area, the City of Sullivan, Missouri.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 601. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $6,600 except station wagons for which the maximum shall be $7,600: *Provided,* That these limits

may be exceeded by not to exceed $2,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further,* That the limits set forth in this section shall not apply to electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.

SEC. 602. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922–24.

SEC. 603. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian, and Laotian refugees paroled in the United States after January 1, 1975: *Provided,* That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: *Provided further,* That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

SEC. 604. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided,* That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 606. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 607. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided,* That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

SEC. 608. No part of any appropriation contained in this or any other Act, shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 609. Funds made available by this or any other Act to (1) the General Services Administration, including the fund created by the Public Building Amendments of 1972 (86 Stat. 216), and (2) the "Postal Service Fund" (39 U.S.C. 2003), shall be available for employment of guards for all buildings and areas owned or occupied by the United States or the Postal Service and under the charge and control of the General Services Administration or the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), but shall not be restricted to certain Federal property as otherwise required by the proviso contained in said section and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c): *Provided,* That when the Administrator of General Services delegates responsibility to protect property under his charge and control to the head of another Federal agency, that agency may employ guards to protect the property who shall have the same powers of special policemen in same manner as the foregoing.

SEC. 610. None of the funds available under this or any other Act shall be available for administrative expenses in connection with the designation for construction, arranging for financing, or execution of contracts or agreements for financing or construction of any additional purchase contract projects pursuant to section 5 of the Public Building Amendments of 1972 (Public Law 92-313) during the period beginning October 1, 1976, and ending September 30, 1988.

SEC. 611. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 612. No part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per

square foot established for the space and services by the General Services Administration for the fiscal year for which appropriations were granted.

SEC. 613. (a)(1) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1988, or September 30, 1989, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title—

(1) during the period from the date of expiration of the limitation imposed by section 613 of the Treasury, Postal Service, and General Government Appropriations Act, 1987, as incorporated in section 101(m) of Public Laws 99-500 and 99-591, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 613; and

(2) during the period consisting of the remainder, if any, of fiscal year 1988, and that portion of fiscal year 1989, that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1989, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1988.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1987, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1987, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1987.

(f) For the purpose of administering any provision of law, including section 8431 of title 5, United States Code, or any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate or salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 614. None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisement functions of any offices in the United States Customs Service.

SEC. 615. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to renovate, remodel, furnish, or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such renovation, remodeling, furnishing, or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

SEC. 616. (a) If any individual or entity which provides or proposes to provide child care services for Federal employees during fiscal year 1988 or any fiscal year thereafter, applies to the officer or agency of the United States charged with the allotment of space in the Federal buildings in the community or district in which such individual or entity provides or proposes to provide such service, such officer or agency may allot space in such a building to such individual or entity if—

(1) such space is available;

(2) such officer or agency determines that such space will be used to provide child care services to a group of individuals of whom at least 50 percent are Federal employees; and

(3) such officer or agency determines that such individual or entity will give priority for available child care services in such space to Federal employees.

(b)(1) If an officer or agency allots space during fiscal year 1988 or any fiscal year thereafter, to an individual or entity under subsection (a), such space may be provided to such individual or entity without charge for rent or services.

(2) If there is an agreement for the payment of costs associated with the provision of space allotted under subsection (a) or services provided in connection with such space, nothing in title 31, United States Code, or any other provision of law, shall be construed to prohibit or restrict payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.

(3) For the purpose of this section, the term "services" includes the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone service (including installation of lines and equipment and other expenses associated with telephone service), and security systems (including installation and other expenses associated with security systems).

SEC. 617. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 618. (a) None of the funds appropriated by this Act, or any other Act in this or any fiscal year hereafter, may be used in preparing, promulgating, or implementing any regulations relating to the Combined Federal Campaign if such regulations are not in conformance with subsection (b).

(b)(1)(A) Any requirements for eligibility to receive contributions through the Combined Federal Campaign shall not, to the extent that such requirements relate to litigation, public-policy advocacy, or attempting to influence legislation, be any more restrictive than any requirements established with respect to those subject matters under section 501(c)(3) or 501(h) of the Internal Revenue Code of 1986.

(B) Any requirements for eligibility to receive contributions through the Combined Federal Campaign shall, to the extent that such requirements relate to any subject matter other than one referred to in subparagraph (A), remain the same as the criteria in the 1984 regulations, except as otherwise provided in this section.

(C) Notwithstanding any requirement referred to in subparagraph (A) or (B), for purposes of any Combined Federal Campaign—

(i) any voluntary agency or federated group which was a named plaintiff as of September 1, 1987, in a case brought in the United States District Court for the District of Columbia, and designated as Civil Action No. 83-0928 or 86-1367, and

(ii) The Federal Employee Education and Assistance Fund, shall be considered to have national eligibility.

(D) Public accountability standards shall remain similar to the standards which were by regulation established with respect to the 1984-1987 Combined Federal Campaigns, except that the Office of Personnel Management shall prescribe regulations under which a voluntary agency or federated group which does not exceed a certain size (as established under such regulations) may submit a copy of an appropriate Federal tax return, rather than complying with any independent auditing requirements which would otherwise apply.

(2)(A) A voluntary agency or federated group shall, for purposes of any Combined Federal Campaign in any year, be considered to have national eligibility if such agency or group—

(i) complies with all requirements for eligibility to receive contributions through the Combined Federal Campaign, without regard to any requirements relating to "local presence"; and

(ii) demonstrates that it provided services, benefits, or assistance, or otherwise conducted program activities, in—

(I) 15 or more different States over the 3-year period immediately preceding the start of the year involved; or

(II) several foreign countries or several parts of a foreign country.

For purposes of this subparagraph, an agency or federated group shall be considered to have conducted program activities in the required number of States, countries, or parts of a country, over the period of years involved, if such agency or group conducted program activities in such number of States, countries, or parts either in any single year during such period or in the aggregate over the course of such period, provided that no State, country, or part of a country is counted more than once.

(B) Notwithstanding any other provisions, eligibility requirements relating to International Services Agencies shall remain at least as inclusive as existing requirements. Any voluntary agency or federated group which attains national eligibility under subparagraph (A), and any voluntary agency which is a member of the International Services Agencies, shall be considered to have satisfied any requirements relating to "local presence".

(3)(A) If a federated group is eligible to receive donations in a Combined Federal Campaign, whether on a national level (pursuant to certification by the Office) or a local level (pursuant to certification by the local Federal coordinating committee), each voluntary agency which is a member of such group may, upon certification by the federated group, be considered eligible to participate on such national or local level, as the case may be.

(B) Notwithstanding any provision of subparagraph (A)—

(i) the Office may require a voluntary agency to provide information to support any certification submitted by a federated group with respect to such agency under subparagraph (A); and

(ii) if a determination is made, in writing after notice and opportunity to submit written comments, that the information

submitted by the voluntary agency does not satisfy the applicable eligibility requirements, such agency may be barred from participating in the Combined Federal Campaign on a national or local level, as the case may be, for a period not to exceed 1 campaign year.

(4) The Office shall exercise oversight responsibility to ensure that—

(A) regulations are uniformly and equitably implemented in all local combined Federal campaigns;

(B) federated groups participating in a local combined Federal campaign are allowed to compete fairly for the role of principal combined fund organization;

(C) federated groups participating in a local combined Federal campaign are afforded—

(i) adequate opportunity to consult with the PCFO for the area involved before any plans are made final relating to the design or conduct of such campaign (including plans pertaining to any materials to be printed as part of the campaign);

(ii) adequate opportunity to participate in campaign events and other related activities; and

(iii) timely access to all reports, budgets, audits, and other records in the possession of, or under the control of, the PCFO for the areas involved; and

(D) a federated group or voluntary agency found by the Office, by a written decision issued after notice and opportunity to submit written comments, to have violated the regulations may be barred from serving as a PCFO for not to exceed 1 campaign year.

(5) The Office shall prescribe regulations to ensure that PCFOs do not make inappropriate delegations of decisionmaking authority.

(6)(A) The Office shall, in consultation with federated groups, establish a formula under which any undesignated contributions received in a local combined Federal campaign shall be allocated in any year.

(B) Under the formula for the 1990 Combined Federal Campaign, all undesignated contributions received in a local campaign shall be allocated as follows:

(i) 82 percent shall be allocated to the United Way.

(ii) 7 percent shall be allocated to the International Services Agencies.

(iii) 7 percent shall be allocated to the National Voluntary Health Agencies.

(iv) 4 percent shall, after fair and careful consideration of all eligible federated groups and agencies, be allocated by the local Federal coordinating committee among any or all of the following:

(I) National federated groups (other than any identified in clauses (i), (ii), or (iii)), except that a national federated group shall not be eligible under this subclause unless there are at least 15 members of such group participating in the local campaign, unless the members of such group collectively receive at least 4 percent of the designated contributions in the local campaign, and unless such group was granted national eligibility status for the 1987, 1988, 1989, or 1990 Combined Federal Campaign.

(II) Local federated groups.

(III) Any local, non-affiliated voluntary agency which receives at least 4 percent of the designated contributions in the local campaign.

(C) The formula set forth in subparagraph (B)—

(i) shall be phased in over the course of the 1988 and 1989 Combined Federal Campaigns;

(ii) shall be fully implemented with respect to the 1990 Combined Federal Campaigns; and

(iii) shall, with respect to any Combined Federal Campaign thereafter, be adjusted based on the experience gained in the Combined Federal Campaigns referred to in clauses (i) and (ii).

(D) Nothing in this paragraph shall apply with respect to any campaign conducted in a foreign country.

(E) All appropriate steps shall be taken to encourage donors to make designated contributions.

(7) The option for a donor to write in the name of a voluntary agency or federated group not listed in the campaign brochure to receive that individual's contribution in a local campaign shall be eliminated.

(8) The name of any individual making a designated contribution in a campaign shall, upon request of the recipient voluntary agency or federated group, be released to such agency or group, unless the contributor indicates that his or her name is not to be released. Under no circumstance may the names of contributors be sold or otherwise released by such agency or group.

(9)(A) The name of each participating voluntary agency and federated group, together with a brief description of their respective programs, shall be published in any information leaflet distributed to employees in a local combined Federal campaign. Agencies shall be arranged by federated group, with combined Federal campaign organization code numbers corresponding to each such agency and group.

(B) The requirement under subparagraph (A) relating to the inclusion of program descriptions may, at the discretion of a local Federal coordinating committee, be waived for a local campaign in any year if, in the immediately preceding campaign year, contributions received through the local campaign totalled less than $100,000.

(10) Employee coercion is not to be tolerated in the Combined Federal Campaign, and protections against employee coercion shall be strengthened and clarified.

(11) The Office—

(A) may not, after the date of the enactment of this Act, grant national eligibility status to any federated group unless such group has at least 15 member voluntary agencies, each of which meets the requirements for national eligibility under paragraph (2)(A); and

(B) may withdraw federation status from any federated group for a period of not to exceed 1 campaign year if it is determined, on the record after opportunity for a hearing, that the federated group has not complied with the regulatory requirements.

(12) The Office may bar from participation in the Combined Federal Campaign, for a period not to exceed 1 campaign year, any voluntary agency which the Office determines, in writing, and after notice and opportunity to submit written comments, did not comply with a reasonable request by the Office to furnish it with information relating to such agency's campaign accounting and auditing practices.

(c) For purposes of this section, a voluntary agency or federated group having "national eligibility" is one which is eligible to participate in each local domestic combined Federal campaign.

INDUSTRIAL FUNDING OF THE GENERAL SUPPLY FUND

SEC. 619. Industrial Funding.

(a) PERMISSIBLE USES OF GENERAL SUPPLY FUND.—The last sentence of section 109(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 756(a)) is amended—

(1) by striking out "and" at the end of clause (1); and

(2) by inserting before the period at the end of clause (2) the following: ", and (3) for paying other direct costs of, and indirect

costs that are reasonably related to, contracting, procurement, inspection, storage, management, distribution, and accountability of property and nonpersonal services provided by the General Services Administration or by special order through such Administration".

(b) COLLECTION OF PAYMENTS FOR DEPOSIT IN FUND.—Section 109(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 756(b)) is amended by inserting after the second sentence the following new sentence: "Such prices shall also include an additional charge to recover properly allocable costs payable by the General Supply Fund under subsection (a)(3) with respect to the supplies or services concerned.".

(c) IMPLEMENTATION PLAN.—Not later than February 15, 1988, the Administrator of General Services shall submit to the appropriate committees of the Congress a plan for the implementation of the amendments made by this Act. Such plan shall (1) fully describe and explain the accounting system (including the pricing and cost allocation methodology for supplies and services) to be used for such implementation, and (2) contain a schedule for completing actions necessary for such implementation.

(d) EFFECTIVE DATE.—The amendments made by this Act shall take effect not later than April 1, 1988.

SEC. 620. Section 1202(b) of title 5, United States Code, is amended by adding a new sentence as follows: "Any new member serving only a portion of a seven-year term in office may continue to serve until a successor is appointed and has qualified, except that such member may not continue to serve for more than one year after the date on which the term of the member would otherwise expire, unless reappointed.".

SEC. 621. (a) Notwithstanding the provisions of sections 112 and 113 of title 3, United States Code, each Executive agency detailing any personnel shall submit a report on an annual basis in each fiscal year to the Senate and House Committees on Appropriations on all employees or members of the armed services detailed to Executive agencies, listing the grade, position, and offices of each person detailed and the agency to which each such person is detailed.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

(c) The exemptions in part (b) of this section are not intended to apply to information on the use of personnel detailed to or from the intelligence agencies which is currently being supplied to the Senate and House Intelligence and Appropriations Committees by the executive branch through budget justification materials and other reports.

(d) For the purposes of this section, the term "Executive agency" has the same meaning as defined under section 105 of title 5, United States Code (except that the provisions of section 104(2) of title 5, United States Code shall not apply) and includes the White House

Office, the Executive Residence, and any office, council, or organizational unit of the Executive Office of the President.

SEC. 622. (a) None of the funds made available by this or any other Act with respect to any fiscal year may be used to make a contract for the manufacture of distinctive paper for United States currency and securities pursuant to section 5114 of title 31, United States Code, with any corporation or other entity owned or controlled by persons not citizens of the United States, or for the manufacture of such distinctive paper outside of the United States or its possessions. This subsection shall not apply if the Secretary of the Treasury determines that no domestic manufacturer of distinctive paper for United States currency or securities exists with which to make a contract and if the Secretary of the Treasury publishes in the Federal Register a written finding stating the basis for the determination.

(b) None of the funds made available by this or any other Act with respect to any fiscal year may be used to procure paper for passports granted or issued pursuant to the first section of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 211a), if such paper is manufactured outside of the United States or its possessions or is procured from any corporation or other entity owned or controlled by persons not citizens of the United States. This subsection shall not apply if no domestic manufacturer for passport paper exists.

SEC. 623. INTEREST ON BACK PAY FOR FEDERAL EMPLOYEES.—(a) IN GENERAL.—Section 5596(b) of title 5, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by adding after paragraph (1) the following:

"(2)(A) An amount payable under paragraph (1)(A)(i) of this subsection shall be payable with interest.

"(B) Such interest—

"(i) shall be computed for the period beginning on the effective date of the withdrawal or reduction involved and ending on a date not more than 30 days before the date on which payment is made;

"(ii) shall be computed at the rate or rates in effect under section 6621(a)(1) of the Internal Revenue Code of 1986 during the period described in clause (i); and

"(iii) shall be compounded daily.

"(C) Interest under this paragraph shall be paid out of amounts available for payments under paragraph (1) of this subsection.".

(b) EFFECTIVE DATE.—

(1) GENERALLY.—Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to any employee found, in a final judgment entered or a final decision otherwise rendered on or after such date, to have been the subject of an unjustified or unwarranted personnel action, the correction of which entitles such employee to an amount under section 5596(b)(1)(A)(i) of title 5, United States Code.

(2) EXCEPTION.—

(A) CASES IN WHICH A RIGHT TO INTEREST WAS RESERVED.—The amendments made by subsection (a) shall also apply with respect to any claim which was brought under section 5596 of title 5, United States Code, and with respect to which a final judgment was entered or a final decision was otherwise rendered before the date of the enactment of this Act, if, under terms of such judgment or decision, a right to interest was specifically reserved, contingent on the enact-

ment of a statute authorizing the payment of interest on claims brought under such section 5596.

(B) METHOD OF COMPUTING INTEREST.—The amount of interest payable under this paragraph with respect to a claim shall be determined in accordance with section 5596(b)(2)(B) of title 5, United States Code (as amended by this section).

(C) SOURCE.—An amount payable under this paragraph shall be paid from the appropriation made by section 1304 of title 31, United States Code, notwithstanding section 5596(b)(2)(C) of title 5, United States Code (as amended by this section) or any other provision of law.

(D) DEADLINE.—An application for a payment under this paragraph shall be ineffective if it is filed after the end of the 1-year period beginning on the date of the enactment of this Act.

(E) LIMITATION ON PAYMENTS.—Payments under this paragraph may not be made before October 1, 1988, except that interest shall continue to accrue in accordance with 5596(b)(2)(B) of title 5, United States Code.

SEC. 624. (a) Section 7701(j) of title 26, United States Code, is amended—

(1) by deleting from paragraph (1)(c) the words "the provisions of paragraph (2) and" following the words "subject to"; and

(2) by deleting paragraph (2) in its entirety and substituting in lieu thereof the following language: "NONDISCRIMINATION REQUIREMENTS.—Notwithstanding any other provision of law, the Thrift Savings Fund is not subject to the nondiscrimination requirements applicable to arrangements described in section 401(k) or to matching contributions (as described in section 401(m)), so long as it meets the requirements of this section.".

(b) Section 8440 of title 5, United States Code, is amended—

(1) by deleting from paragraph (a)(3) the words "the provisions of subsection (b) and" following the words "subject to"; and

(2) by deleting subsection (b) in its entirety and by substituting in lieu thereof the following language: "NONDISCRIMINATION REQUIREMENTS.—Notwithstanding any other provision of law, the Thrift Savings Fund is not subject to the nondiscrimination requirements applicable to arrangements described in section 401(k) of title 26, United States Code, or to matching contributions (as described in section 401(m) of title 26, United States Code), so long as it meets the requirements of this section.".

SEC. 625. TEMPORARY AUTHORITY TO TRANSFER LEAVE.—In order to ensure that the experimental use of voluntary leave transfers established under Public Laws 99-500 and 99-591 may continue and may cover additional employees in fiscal year 1988, the Office of Personnel Management shall establish by regulation, notwithstanding chapter 63 of title 5, United States Code, a program under which the unused accrued annual leave of officers or employees of the Federal Government may be transferred for use by other officers or employees who need such leave due to a personal emergency as defined in the regulations. The Veterans' Administration shall establish a similar program for employees subject to section 4108 of title 5, United States Code. The programs established by this section shall expire at the end of fiscal year 1988, but any leave that has been transferred to an officer or employee under the programs shall remain available for use until the personal emergency has ended, and any remaining unused transferred leave shall, to the extent administratively feasible, be restored to the leave accounts of the officers or employees from whose accounts it was originally transferred.

SEC. 626. Subsection 8902 of title 5, United States Code, is amended—

(1) by inserting in subsection (k)(1), after "as applicable," the following: "or by a qualified clinical social worker as defined in section 8901(11),";

(2) by inserting in subsection (k)(1), after "such a clinical psychologist" the following: ", qualified clinical social worker";

(3) by striking out all of subsection (k)(2) and by redesignating subsection (k)(3) as subsection (k)(2); and

(4) by striking out the last sentence in subsection (m)(2)(A).

SEC. 627. (a) Section 5 of Public Law 99-87, relating to the use of official mail in the location of missing children, is amended by striking out "two and one-half years after the date of the enactment of this Act" and inserting in lieu thereof "after December 31, 1992".

(b) Section 3(a) of Public Law 99-87 is amended by striking out "Not later than two years after the date of enactment of this Act," and inserting in lieu thereof "Not later than June 30, 1992,".

SEC. 628. SALE OF RESIDENCE OF TRANSFERRED FEDERAL EMPLOYEES AND TRANSPORTATION EXPENSES.—

(a) REIMBURSEMENT OF EXPENSES OF SALE AND PURCHASE OF A RESIDENCE UPON THE TRANSFER OF A FEDERAL EMPLOYEE.—

(1) REIMBURSEMENT OF EXPENSES.—Section 5724a(a)(4)(A) of title 5, United States Code, is amended—

(A) by inserting before the period at the end of the first sentence the following: "; and expenses, required to be paid by the employee, (i) of the sale of the residence (or the settlement of an unexpired lease) of the employee at the official station from which the employee was transferred when he was assigned to a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979) and (ii) of the purchase of a residence at the new official station when the employee is transferred in the interest of the Government from a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), to an official station (other than the official station from which he was transferred when assigned to the foreign tour of duty) within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or such areas and installations in the Republic of Panama"; and

(B) by adding at the end thereof the following new sentence: "Reimbursement of expenses prescribed under this paragraph in connection with transfers from a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), shall not be allowed for any sale or settlement of unexpired lease or purchase transaction that occurs prior to official notification that the employee's return to the United States would be to an official station other than the official station from which the employee was transferred when assigned to the foreign post of duty.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (2) shall be applicable with respect to any employee transferred to or from a post of duty on or after 60 days after the date of enactment of this section.

(b) FUNDS FOR IMPLEMENTATION.—The amendments made by subsection (a) shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. The amendments made by such subsections do not authorize the appropriation of funds in amounts exceeding the sums already authorized to be appropriated for such agencies.

SEC. 629. Notwithstanding 31 U.S.C. 1346 or section 607 of this Act, funds made available for fiscal year 1988 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided in Executive order Number 12472 (April 3, 1984).

EMPLOYEE DISCLOSURE AGREEMENTS

SEC. 630. No funds appropriated in this or any other Act for fiscal year 1988 may be used to implement or enforce the agreements in Standard Forms 189 and 4193 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement:

(1) concerns information other than that specifically marked as classified; or, unmarked but known by the employee to be classified; or, unclassified but known by the employee to be in the process of a classification determination;

(2) contains the term "classifiable";

(3) directly or indirectly obstructs, by requirement of prior written authorization, limitation of authorized disclosure, or otherwise, the right of any individual to petition or communicate with Members of Congress in a secure manner as provided by the rules and procedures of the Congress;

(4) interferes with the right of the Congress to obtain executive branch information in a secure manner as provided by the rules and procedures of the Congress;

(5) imposes any obligations or invokes any remedies inconsistent with statutory law: *Provided,* That nothing in this section shall affect the enforcement of those aspects of such nondisclosure policy, form or agreement that do not fall within subsections (1)–(5) of this section.

This Act may be cited as the "Treasury, Postal Service and General Government Appropriations Act, 1988".

[*Total, Treasury, Postal Service, and General Government Appropriations, 1988:*

[*New budget (obligational) authority* ..... *$15,115,699,000.*]
[*By transfer* ..... *39,000,000.*]
[*Limitations* ..... *2,957,998,000.*]

(n)(1) Upon the enactment of this resolution enrolled as a hand enrollment, the Clerk of the House of Representatives shall prepare a printed enrollment of this resolution as in the case of a bill or joint resolution to which sections 106 and 107 of title 1, United States Code, apply. Such enrollment shall be a correct enrollment of this resolution as enrolled in the hand enrollment. *(enrollment procedures)*

(2) A printed enrollment prepared pursuant to subsection (n)(1) may, in order to conform to customary style for printed laws, include corrections in spelling, punctuation, indentation, type face, and type size and other necessary stylistic corrections to the hand enrollment. Such a printed enrollment shall include notations (in the margins or as otherwise appropriate) of all such corrections.

(3) A printed enrollment prepared pursuant to subsection (n)(1) shall be signed by the presiding officers of both Houses of Congress as a correct printing of the hand enrollment of this resolution and shall be transmitted to the President.

(4) Upon certification by the President that a printed enrollment transmitted pursuant to subsection (n)(3) is a correct printing of the hand enrollment of this resolution, such printed enrollment shall be considered for all purposes as the original enrollment of this resolution and as valid evidence of the enactment of this resolution.

(5) A printed enrollment certified by the President under subsection (n)(4) shall be transmitted to the Archivist of the United States, who shall preserve it with the hand enrollment. In preparing this resolution for publication in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall use the printed enrollment certified by the President under subsection (n)(4) in lieu of the hand enrollment.

(6) As used in this section, the term "hand enrollment" means enrollment in a form other than the printed form required by sections 106 and 107 of title 1, United States Code, as authorized by the joint resolution entitled "Joint resolution authorizing the hand enrollment of the budget reconciliation bill and of the full-year continuing resolution for fiscal year 1988", approved December 1987 (H.J. Res. 426 of the 100th Congress).

(employees furloughed due to appropriation lapse)

(o) Federal employees furloughed as the result of any lapse in appropriations prior to the enactment of this Resolution shall be compensated at their standard rate of compensation for the period during which there was a lapse in appropriations.

All obligations incurred in anticipation of the appropriations made and authority granted by this Resolution for the purpose of maintaining the essential level of activity to protect life and property and bring about the orderly termination of Government functions are hereby ratified and approved if otherwise in accord with the provisions of this Resolution.

(September 30, 1988, expiration date)

SEC. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from December 21, 1987, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) September 30, 1988, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization (including a continuing appropriation for the full year) whenever a bill in which such applicable appropriation, fund, or authorization (including a continuing appropriation for the full year) is contained is enacted into law.

SEC. 105. Section 1515 of title 31 of the United States Code is amended by striking subsection (a) and inserting in lieu thereof the following:

"(a) An appropriation required to be apportioned under section 1512 of this title may be apportioned on a basis that indicates the need for a deficiency or supplemental appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees (including

prevailing rate employees whose pay is fixed and adjusted under subchapter IV of chapter 53 of title 5) and to retired and active military personnel.".

SEC. 106. The provisions of appropriations Acts within the purview of this joint resolution, and the provisions of appropriations Acts within the purview of the following joint resolutions making continuing appropriations (section 101(c) of Public Law 96-86 (93 Stat. 657), section 101(f) of Public Law 98-151 (97 Stat. 973), section 101(b) of Public Law 98-473 (98 Stat. 1837), section 101 (a) and (c) of Public Law 99-190 (99 Stat. 1185, 1224), and section 101 (g), (i), and (l) of Public Laws 99-500 and 99-591 (100 Stat. 1783-242, 1783-287, 1783-308, 3341-242, 3341-287, 3341-308)), shall (to the extent and in the manner specified in the pertinent section of any such joint resolution) be effective as if enacted into law. Those provisions are effective on the date of enactment of the pertinent joint resolution except to the extent a different effective date is specified in the joint resolution or pertinent appropriations Act.

SEC. 107. Amounts and authorities provided by this resolution shall be in accordance with the reports accompanying the bills as passed by or reported to the House and the Senate and in the Joint Explanatory Statement of the Conference accompanying this Joint Resolution.

SEC. 108. (a) Notwithstanding any other provision of this resolution or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1987, and before October 1, 1988, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia— *(no pay increase)*

(1) if the rate of salary or basic pay payable for that office or position as of September 30, 1987, was equal to or greater than the rate of basic pay then payable for level V of the Executive Schedule under section 5316 of title 5, United States Code; or

(2) to a rate exceeding the rate of basic pay payable for level V of the Executive Schedule under such section 5316 as of September 30, 1987, if, as of that date, the rate of salary or basic pay payable for that office or position was less than the rate of basic pay then payable for such level V.

(b) For purposes of subsection (a), the rate of salary or basic pay payable as of September 30, 1987, for any office or position which was not in existence on such date shall be deemed to be the rate of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

(1) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(2) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

(3) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

SEC. 109. (a)(1) None of the funds appropriated for fiscal year 1988 by this resolution or any other law may be obligated or expended to enter into any contract for the construction, alteration, or repair of any public building or public work in the United States or any territory or possession of the United States with any contractor or subcontractor of a foreign country, or any supplier of products of a foreign country, during any period in which such foreign country is listed by the United States Trade Representative under subsection (c) of this section.

(2) The President or the head of a Federal agency administering the funds for the construction, alteration, or repair may waive the

restrictions of paragraph (1) of this subsection with respect to an individual contract if the President or the head of such agency determines that such action is necessary in the public interest. The authority of the President or the head of a Federal agency under this paragraph may not be delegated. The President or the head of a Federal agency waiving such restrictions shall, within 10 days, publish a notice thereof in the Federal Register describing in detail the contract involved and the reason for granting the waiver.

(b)(1) Not later than 30 days after the date of enactment of this resolution, the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information or evidence concerning discrimination in construction projects against United States products and services that are available.

(c)(1) The United States Trade Representative shall maintain a list of each foreign country which—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) Such list shall include—

(A) each foreign country with respect to which an affirmative determination is made under subsection (b); and

(B) the country of Japan and any other country which has expressed a policy of denying fair and equitable market opportunities for products and services of the United States in procurement or bidding for projects described in paragraph (1) of this subsection.

(3) Any foreign country that is initially listed or that is added to the list maintained under paragraph (1) shall remain on the list until—

(A) such country removes the barriers in construction projects to United States products and services;

(B) such country submits to the President or the United States Trade Representative evidence demonstrating that such barriers have been removed; and

(C) the United States Trade Representative conducts an investigation to verify independently that such barriers have been removed and submits, at least 30 days before granting any such waiver, a report to each House of the Congress identifying the barriers and describing the actions taken to remove them.

(4) The United States Trade Representative shall publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made after publication of the original list.

(d) For purposes of this section—

(1) each foreign instrumentality, and each territory or possession of a foreign country that is administered separately for customs purposes, shall be treated as a separate foreign country;

(2) any contractor or subcontractor that is a citizen or national of a foreign country, or is controlled directly or indirectly by citizens or nationals of a foreign country, shall be considered to be a contractor or subcontractor of such foreign country;

(3) subject to paragraph (4), any product that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country;

(4) the restrictions of subsection (a)(1) shall not prohibit the use, in the construction, alteration, or repair of a public building or public work, of vehicles or construction equipment of a foreign country; and

(5) the terms "contractor" and "subcontractor" include any person performing any architectural, engineering, or other services directly related to the preparation for or performance of the construction, alteration, or repair.

(e) Paragraph (a)(1) of this section shall not apply to contracts entered into prior to the date of enactment of this resolution.

(f) The provisions of this section are in addition to, and do not limit or supersede, any other restrictions contained in any other Federal law.

SEC. 110 (a) ADJUSTMENTS FOR EMPLOYEES UNDER STATUTORY PAY SYSTEMS.—

(1) TWO-PERCENT INCREASE.—Notwithstanding any other provision of law, in the case of fiscal year 1988, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 2 percent. *(pay increase)*

(2) UNIFORM ADJUSTMENTS; DELAYED EFFECTIVE DATE.—Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage and shall take effect as of the beginning of the first applicable pay period beginning on or after January 1, 1988.

(b) TWO PERCENT MILITARY PAY RAISE FOR FISCAL YEAR 1988.—Section 601 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) is amended by striking out subsections (b), (c), and (d) and inserting in lieu thereof the following:

"(b) TWO PERCENT INCREASE IN BASIC PAY, BAQ, AND BAS.—The rates of basic pay, basic allowance for quarters, and basic allowance for subsistence of members of the uniformed services are increased by 2 percent effective on January 1, 1988.

"(c) TWO PERCENT INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective on January 1, 1988, section 203(c)(1) of title 37, United States Code, is amended by striking out '$494.40' and inserting in lieu thereof '$504.30'.".

ASSISTANCE TO THE NICARAGUAN DEMOCRATIC RESISTANCE *(Contra aid)*

SEC. 111. (a) There are hereby transfered to the President $3,600,000 of unobligated funds, from such accounts for which appropriations were made by Department of Defense appropriations Acts for the fiscal year 1987 or prior years, as the President shall *$3,600,000 (by transfer)*

designate, to provide humanitarian assistance to the Nicaraguan democratic resistance consistent with this section, to remain available through February 29, 1988.

(b)(1) The President is authorized to transfer or reprogram $4,500,000 of unobligated funds from such accounts for which appropriations were made by Department of Defense appropriations Acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provided transportation of humanitarian and other assistance previously, specifically authorized by law to the Nicaraguan domestic resistance, to remain available through February 29, 1988. *$4,500,000 (by transfer/ reprogramming)*

(2)(A) Transportation under paragraph (1) for lethal assistance previously authorized by law shall be suspended on January 12, 1988 and shall resume thereafter only if, after January 18, 1988, the President determines and certifies to the Congress that—

(i) at the time of such certification no ceasefire is in place that was agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance;

(ii) the failure to achieve the ceasefire described in subparagraph (A)(i) results from the lack of good faith efforts by the Government of Nicaragua to achieve such a ceasefire; and

(iii) the Nicaraguan democratic resistance has engaged in good faith efforts to achieve the ceasefire described in subparagraph (A)(i).

(B) Transportation under paragraph (1) for lethal assistance previously authorized by law shall be suspended during any period in which there is in place a ceasefire described in subparagraph (A)(i), except to the extent, if any, permitted by the agreement governing such ceasefire.

(c)(1) The Department of Defense shall, through February 29, 1988, make available to the department or agency administering this section passive air defense equipment to ensure the safety of transportation provided pursuant to this section.

(2) The Department of Defense shall not charge the department or agency receiving equipment under paragraph (1) for such equipment, and shall bear the risk of loss, damage or deterioration of such equipment during the period of its use under the authority of paragraph (1).

(d)(1) The President is authorized to transfer unobligated funds from such accounts for which appropriations were made by Department of Defense appropriations Acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, solely for the indemnification through February 29, 1988, of aircraft leased after the date of enactment of this joint resolution to carry out subsection (b).

(2) On March 1, 1988, the President shall transfer the balance, if any, remaining of funds transferred under paragraph (1) to the accounts from which such funds were transferred under paragraph (1).

(e) As used in this section, the term "humanitarian assistance" means only food, clothing, shelter, medical services, medical supplies, and payment for such items.

(f) The requirements, terms and conditions of section 104 of the Intelligence Authorization Act, fiscal year 1988 (Public Law 100-178), section 8144 of the Department of Defense Appropriations Act, 1988 as contained in section 101(b) of this joint resolution, section 10 of Public Law 91-672, section 502 of the National Security Act of 1947, section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use consistent with this section of the funds made available by subsections (a), (b), and (d), and the transfer and use of equipment as provided in subsection (c).

(g) The authority to support, monitor, and manage the activities for which this section provides funds shall continue until February 29, 1988.

(h) Sections 203(e), 204(b), 207, 209(b), 209(c), and 216, and the first sentence of section 203(d), in "TITLE II—CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591) shall apply with respect to funds made available by this section.

(i) If, on January 17, 1988, a cease-fire agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance is in place and the Government of Nicaragua is in compliance with the Guatemala peace accord of August 7, 1987, then the President shall, to the maximum extent practicable, make the unobligated balance of funds transferred by subsection (a) available for administration consistent with this section by nonpolitical humanitarian international organizations.

(j)(1) The President may submit to Congress, no earlier than January 25, 1988, and no later than January 27, 1988, a request in accordance with this section for budget and other authority to provide additional assistance for the Nicaraguan democratic resistance.

(2) Only if a joint resolution approving a request made pursuant to subsection (j)(1) has been enacted into law, the President may submit to Congress one additional request under this section for budget and other authority to provide additional assistance for the Nicaraguan democratic resistance.

(3) It is the sense of Congress that any request in accordance with this section should be compatible with the Guatemala peace accord of August 7, 1987, and the decisions reached by the Central American presidents at the meeting on the report of the International Commission of Verification and Followup, and consistent with the national security interests of the United States.

(4) Each request of the President in accordance with this section shall include a detailed statement of the steps that the United States, the Central American nations, and other interested parties have taken in support of the Guatemala peace accord of August 7, 1987, and of any ceasefire agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance, as well as a report on any progress made in any bilateral or multilateral talks between the United States and the Government of Nicaragua.

(5) If a request of the President in accordance with this section proposes the transfer of funds, the request shall specify the accounts from which the funds are proposed to be transferred.

(6) For purposes of this section, the term "joint resolution" means only a joint resolution introduced within one day of session after the day of session on which the Congress receives the request submitted by the President pursuant to paragraphs (1) or (2)—

(A) the matter after the resolving clause of which is as follows: "That the Congress hereby approves the additional authority and assistance for the Nicaraguan democratic resistance that the President requested pursuant to H.J. Res. 395 of the 100th Congress, the Act making continuing appropriations for fiscal year 1988.";

(B) which does not have a preamble; and

(C) the title of which is as follows: "Joint resolution relating to Central America pursuant to H.J. Res. 395 of the 100th Congress.".

(7) Any such joint resolution shall, upon introduction, be referred in the House of Representatives to the appropriate committee or committees.

(8) If all of the committees of the House of Representatives to which the first joint resolution approving a request made pursuant to subsection (j)(1) has been referred have not reported such joint resolution by the end of February 1, 1988, any committee which has not reported such joint resolution shall be discharged from further

consideration thereof on February 2, 1988, and such joint resolution shall be placed on the appropriate calendar of the House.

(9) If all of the committees of the House of Representatives to which the first joint resolution approving a request made pursuant to subsection (j)(2) has been referred have not reported such joint resolution by the end of ten days of session after such joint resolution was introduced, any committee which has not reported such joint resolution shall be discharged from further consideration thereof and such joint resolution shall be placed on the appropriate calendar of the House.

(10) On February 3, 1988, it is in order for any Member of the House of Representatives (after consultation with the Speaker as to the most appropriate time for consideration) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution approving a request made pursuant to subsection (j)(1).

(11) It is in order for any Member of the House of Representatives (after consultation with the Speaker as to the most appropriate time for consideration) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution approving a request made pursuant to subsection (j)(2) at any time after such joint resolution has been on the calendar for a period of five days of session, except that it shall not be in order to consider such joint resolution prior to July 1, 1988.

(12) In the House of Representatives, the vote on final passage of the joint resolution approving a request made pursuant to subsection (j)(1) shall occur no later than February 3, 1988, and the vote on final passage of the joint resolution approving a request made pursuant to subsection (j)(2) shall occur no later than September 30, 1988.

(k)(1) The motion that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of a joint resolution in accordance with this section is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points of order against the joint resolution and against its consideration are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of.

(2) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(3) An amendment to the joint resolution is not in order.

(4) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(l)(1) A joint resolution described in subsection (j)(6) introduced in the Senate shall be referred to the appropriate committee of the Senate.

(2) If the committee to which is referred a joint resolution described in subsection (j)(6) has not reported such a resolution at the end of February 2, 1988, in the case of a resolution approving a request made pursuant to subsection (j)(1), hereinafter referred to as the first resolution, and at the end of 15 days of session after the introduction of a resolution approving a request made pursuant to subsection (j)(2), hereinafter referred to as the second resolution, such committee shall be discharged from further consideration of any such joint resolution. The second such resolution may not be reported before the eighth day of session after its introduction.

(3)(A) When the committee to which a resolution is referred has reported, or has been discharged (under paragraph (2)) from further consideration of, a resolution described in subsection (j)(6), notwithstanding any rule or precedent of the Senate, including rule 22, it is in order only on February 4, 1988, in the case of the first, and any time in July, August, or September 1988, in the case of the second (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is not debatable. The motion is not subject to a motion to postpone. A yea and nay vote shall occur on the motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the Senate until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between the majority and the minority leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of debate on a resolution described in subsection (j)(6), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution described in subsection (j)(6) shall be decided without debate.

(E) The vote on passage of the first such joint resolution in the Senate shall occur no later than 10 p.m., February 4, 1988, and on the second such joint resolution not before July 1, 1988, and no later than 10 p.m., September 30, 1988.

(4) If, before the passage by the Senate of a resolution of the Senate described in subsection (j)(6), the Senate receives from the House of Representatives a resolution described in subsection (j)(6), then the following procedures shall apply:

(A) The resolution of the House of Representatives shall not be referred to a committee.

(B) With respect to a resolution described in subsection (j)(6) in the Senate—

(i) the procedure in the Senate shall be the same as if no resolution had been received from the House; but

(ii) the vote on passage shall be on the resolution of the House.

(C) Upon disposition of the resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

(5) If the Senate receives from the House of Representatives a resolution described in subsection (j)(6) after the Senate has disposed of a Senate originated resolution, the action of the Senate with regard to the disposition of the Senate originated resolution shall be deemed to be the action of the Senate with regard to the House originated resolution.

(m)(1) Section 215 in "TITLE II—CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591), and subsections (p), (s), and (t) of section 722 of the International Security and Development

Cooperation Act of 1985 are hereby repealed, and the provisions of section 8066 of the Department of Defense Appropriations Act, 1985, as contained in Public Law 98-473, shall not apply to any request for assistance to the Nicaraguan democratic resistance.

(2) Subsections (j)-(l) are enacted—

(A) as an exercise in the rulemaking powers of the House of Representatives and Senate, and as such they are deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under this section, and they supercede other rules only to the extent that they are inconsistent with such rules; and

(B) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

(3) As used in this subsection, the term "day of session" means a day on which the respective House is in session.

SEC. 136. (a) Paragraph (37) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)) is amended by adding at the end thereof the following new subparagraph:

"(F)(i) For purposes of this title a qualified football coaches plan—

"(I) shall be treated as a multiemployer plan to the extent not inconsistent with the purposes of this subparagraph; and

"(II) notwithstanding section 401(k)(4)(B) of such Code, may include a qualified cash and deferred arrangement.

"(ii) For purposes of this subparagraph, the term 'qualified football coaches plan' means any defined contribution plan which is established and maintained by an organization—

"(I) which is described in section 501(c);

"(II) the membership of which consists entirely of individuals who primarily coach football as full-time employees of 4-year colleges or universities described in section 170(b)(1)(A)(ii); and

"(III) which was in existence on September 18, 1986."

(b) The amendment made by this section shall apply to years beginning after the date of the enactment of this joint resolution.

SEC. 137. (a) The amounts made available for Star Schools under section 101(h) of this joint resolution shall be available for carrying out the provisions of title IX of the Education for Economic Security Act, relating to Star Schools, as contained in section 6005 of the Senate amendment to H.R. 5. *(Star Schools)*

(b) The amounts made available for the workplace literacy program under section 101(h) of this joint resolution shall be for carrying out the provisions of section 317 of the Adult Education Act, as contained in the Senate amendment to H.R. 5.

(c) The amounts made available for dropout prevention under section 101(h) of this joint resolution shall be available for part A and part C of title VIII of the Senate amendment to H.R. 5: *Provided*, That (1) the first category of local educational agencies for allotment under part A shall include such agencies with a total enrollment of 100,000 or more students and 25 percent of the amount appropriated shall be allotted for such category, (2) the second such category shall be agencies having a total enrollment of 20,000 but less than 100,000 and 40 percent of the amount appropriated shall be allotted to the second category, and (3) the third such category of agencies shall be allotted 30 percent of the amount appropriated.

SEC. 138. (a)(1) For the purposes of making adjustments under section 619(a)(2)(E) of the Education of the Handicapped Act for fiscal year 1987, the number of handicapped children aged 3 to 5,

inclusive receiving special education and related services for purposes of section 619(a)(2)(A)(ii)(II) of such Act shall be equal to the number of such children receiving special education and related services on December 1, 1987, or, if the State educational agency so chooses, the number of such children on March 1, 1988.

(2) In complying with paragraph (1), the Secretary of Education may not use the March 1 count for the purpose of this subsection unless it is received by the Secretary not later than April 15, 1988.

(3) For the purpose of this subsection, only children aged three to five, inclusive, as of December 1, 1987, may be included in the March 1, 1988, count.

(b) The provisions of subsection (a) shall be effective as if enacted on October 8, 1986.

($10,000,000, authorization)

SEC. 139. There is authorized $10,000,000 to establish the Warren G. Magnuson Foundation and Margaret Chase Smith Foundation Assistance Act.

(Warren G. Magnuson Foundation)

SEC. 140. (a) In recognition of the public service of Senator Warren G. Magnuson, the Secretary of Education shall make grants, in accordance with the provisions of this joint resolution, to the Warren G. Magnuson Foundation for use in the development and activities of the Warren G. Magnuson Health Services Center at the University of Washington at Seattle, Washington, and for other health and education related activities of the Foundation.

(Margaret Chase Smith Foundation)

(b) In recognition of the public service of Senator Margaret Chase Smith, the Secretary of Education shall make grants, in accordance with the provisions of this joint resolution to the Margaret Chase Smith Foundation for use in the development and activities of the Margaret Chase Smith Library Center, located in Skowhegan, Maine.

(c) No payment may be made under this joint resolution unless an application is made to the Secretary of Education at such time, in such manner, and containing or accompanied by such information as the Secretary of Education may require.

SEC. 141. (a) There are authorized to be appropriated such sums, not to exceed $5,000,000 as may be necessary to carry out the provisions of section 140(a) of this joint resolution.

(b) There are authorized to be appropriated such sums, not to exceed $5,000,000 as may be necessary to carry out the provisions of section 140(b) of this joint resolution.

(c) Funds appropriated under this joint resolution shall remain available until expended.

(distribution of unused food)

SEC. 144. The Committee on Rules and Administration of the Senate may provide for the distribution of unused food from the Senate cafeterias under the jurisdiction of the committee to the needy of the District of Columbia through an appropriate private distribution organization selected by the committee.

(Gary Job Corps Center)

SEC. 156. (a) The Secretary of Labor is authorized to make available from funding provided by this joint resolution and authorized by title IV, part B of the Job Training Partnership Act such funds as are necessary to match a Federal Aviation Administration grant to the city of San Marcos, Texas, for the functional replacement of buildings and other facilities at the Gary Job Corps Center, San Marcos, Texas: *Provided,* That funding made available by this joint resolution for this purpose shall not exceed $372,000. Such funds are necessary to facilitate the transfer of 37 acres, more or less, at the Gary Job Corps Center to the city of San Marcos, pursuant to section 516 of the Airport and Airway Improvement Act of 1982, as amended (by pending legislation: H.R. 2310/S. 1184, awaiting conference), for development of the San Marcos Municipal Airport.

(b) Notwithstanding any other provision of law, the Secretary of Transportation is authorized, pursuant to section 505(a) of the Airport and Airway Improvement Act of 1982, as amended (by pending

legislation), to issue a grant to the city of San Marcos, Texas, for the functional replacement of buildings and other improvements at the Gary Job Corps Center, San Marcos, Texas; such functional replacement shall be considered as airport development as defined in section 503(a)(2) of said Act; further, costs for such functional replacement shall be allowable costs, notwithstanding any provision of section 513(c) of said Act; funds authorized in subsection (a) of this section may be used to provide the needed matching share of the cost of such functional relocation, notwithstanding any provision of section 510 of said Act.

(c) For the purpose of this section, no Federal funds used for such functional replacement shall be considered as an expense to the United States as that term is used in section 516 of the Airport and Airway Improvement Act of 1982, as amended (by pending legislation).

(d) The 37 acres referenced in subsection (a) of this section are defined as follows: a tract of land being that part of the Job Corps site located south of and adjacent to the aircraft apron of the San Marcos Airport, Caldwell County, Texas. This tract is more particularly described in the following paragraphs:

beginning at that northwest corner of the Job Corps site which is located near the south edge of the aircraft apron, and is approximately 100 feet northeasterly of the old control tower;

thence east along the north boundary of the Job Corps site an approximate distance of 1850 feet to a point in the aircraft apron;

thence northeasterly along a line perpendicular to the center line of runway 12-30 an approximate distance of 150 feet to a point which is approximately 750 feet from the said center line;

thence southeasterly along a line in the aircraft apron and parallel to the said center line an approximate distance of 1,500 feet to a point near the southeast edge of the said apron;

thence southwest along a line perpendicular to the said center line an approximate distance of 400 feet to a point;

thence northwest along a line parallel to the said centerline an approximate distance of 150 feet to a point which is on an extension of a line northeasterly along 10th Street;

thence southwest along the said extension an approximate distance of 200 feet to a point;

thence northwest along a line parallel to the southwest side of the large solitary hangar between 9th Street and 10th Street and passing along the southwest side of this hangar an approximate distance of 700 feet to a point which is on an extension of a line northeasterly along 9th Street;

thence southwest along the extension of the line along 9th Street an approximate distance of 250 feet to a point on the southwest line of Kane Avenue East;

thence northwest along the southwest line of Kane Avenue East an approximate distance of 650 feet to an angle point in Kane Avenue;

thence west along the south line of Kane Avenue an approximate distance of 2800 feet to a point on the northwest boundary of the Job Corps site, which is on the northwest side of Kane Avenue West;

thence northeast along the said northwest boundary an approximate distance of 50 feet to a point on the north boundary of the Job Corps site;

thence east along the north boundary of the Job Corps site, which is along the north side of Kane Avenue, an approximate distance of 1250 feet to an angle point in the boundary;

thence north along the boundary an approximate distance of 150 feet to an angle point in the boundary;

thence east along the boundary an approximate distance of 250 feet to an angle point in the boundary; and

thence north along the boundary an approximate distance of 300 feet to the point of beginning.

AGRICULTURAL AID AND TRADE MISSIONS ACT

(Agricultural Aid and Trade Missions Act)

SEC. 1. AGRICULTURAL AID AND TRADE MISSIONS.

(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, under the chairmanship of the Secretary of Agriculture, the Secretary of Agriculture, the Secretary of State, and the Administrator shall jointly establish agricultural aid and trade missions to eligible countries to encourage the countries to participate in those United States agricultural aid and trade programs for which they are eligible in accordance with section 2.

(b) COMPOSITION.—A mission to an eligible country shall be composed of—

(1) representatives of the Department of Agriculture, the Department of State, and the Agency for International Development, appointed by the Secretary of Agriculture, Secretary of State, and Administrator, respectively; and

(2) not less then 3, nor more than 6, representatives of market development cooperators, tax-exempt nonprofit agribusiness organizations, private voluntary organizations, and cooperatives, appointed jointly by the Secretary of Agriculture, Secretary of State, and Administrator,

who are knowledgeable about food aid and agricultural export programs, as well as the food needs, trade potential, and economy of the eligible country.

(c) TERMS.—The term of members of a mission shall terminate on submission of the report required under section 4.

(d) COMPENSATION AND TRAVEL EXPENSES.—A member of a mission shall serve without compensation, if not otherwise an officer or employee of the United States, except that a member, while away from home or regular place of business in the performance of services under this chapter, shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5, United States Code.

SEC. 2. REQUIRED AND ADDITIONAL MISSIONS; ELIGIBLE COUNTRIES.

(a) REQUIRED MISSIONS.—Missions shall be established and completed—

(1) not later than 6 months after the date of enactment of this Act, in 8 countries chosen in accordance with the criteria set forth in subsection (c); and

(2) not later than 1 year after the date of enactment of this Act, in 8 additional countries chosen in accordance with such criteria.

(b) ADDITIONAL MISSIONS.—After the completion of the missions referred to in subsection (a), a mission may be established to any foreign country chosen in accordance with the criteria set forth in subsection (c).

(c) CRITERIA.—

(1) INDIVIDUAL COUNTRIES.—Subject to paragraph (2) and subsection (a), a mission shall be established to a foreign country if—

(A) the country is eligible for participation in United States agricultural aid and trade programs and such participation would be mutually advantageous to the country and the United States; and

(B) the country is friendly to the United States.

(2) MULTIPLE COUNTRIES.—In selecting countries for missions under this section, the Secretary shall—

(A) select countries that are in various stages of development and have various income levels; and

(B) consider—

(i) past participation in United States food programs;

(ii) experience with United States agricultural aid and trade programs; and

(iii) import market potential.

(d) ELIGIBILITY OF POLAND.—Notwithstanding any other provision of this section, the Secretary of Agriculture may establish a mission in Poland.

SEC. 3. FUNCTIONS.

The members of a mission to an eligible country shall—

(1) meet with representatives of Government agencies of the United States and the eligible country, as well as commodity boards, private enterprises, international organizations, private voluntary organizations, and cooperatives that operate in the eligible country, to assist in planning the extent to which United States agricultural aid and trade programs could be used in a mutally beneficial manner to meet the food and economic needs of the country;

(2) provide technical expertise and information to representatives of Government agencies of the United States and the eligible country and private organizations with respect to United States agricultural aid and trade programs and agricultural commodities and other assistance available to the eligible country under such programs; and

(3) assist in obtaining firm commitments for—

(A) proposals for food aid programs; and

(B) agreements for commodity sales.

SEC. 4. MISSION REPORTS.

Not later than 60 days after the completion of a mission under section 2, the mission shall submit a report that contains the findings and recommendations of the mission in carrying out its responsibilities under this chapter to the President, the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry and the Committee on Foreign Relations of the Senate, the Secretary of Agriculture, the Secretary of State, and the Administrator.

SEC. 5. PROGRESS REPORTS.

During the 2-year period beginning 1 year after the date of enactment of this Act, the Secretary of Agriculture and the Administrator shall jointly submit a quarterly report on progress made in implementing the recommendations of the missions reported under section 4, including the quantity and dollar value of commodities shipped to eligible countries and the specific development programs undertaken in accordance with this chapter, to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Foreign Relations of the Senate.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this chapter: *Provided,* That $200,000 is appropriated to carry out this chapter for fiscal year 1988. $200,000

SEC. 7. DEFINITIONS.

As used in this chapter:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Agency for International Development.

(2) ELIGIBLE COUNTRY.—The term "eligible country" means a country that is eligible under section 2(c).

(3) MISSION.—The term "mission" means an agricultural aid and trade mission established under section 1.

(4) UNITED STATES AGRICULTURAL AID AND TRADE PROGRAMS.—The term "United States agricultural aid and trade programs" includes—

(A) programs established under titles I and II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.);

(B) the program established under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(C) the agricultural export enhancement program established under section 1127 of the Food Security Act of 1985 (7 U.S.C. 1736v);

(D) the dairy export incentive program established under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a-14);

(E) the export credit guarantee program (GSM-102) established under section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f));

(F) the intermediate export credit guarantee program (GSM-103) established under section 4(b) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(b));

(G) the food for progress program established under section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o); and

(H) other agricultural aid and trade programs authorized by the Food Security Act of 1985 (Public Law 99-198), by the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or by other applicable authorities.

Subtitle E—Public Law 480 and Related Provisions

SEC. 8. LEVEL OF SALES FOR FOREIGN CURRENCY.

Section 101(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701(b)) is amended—

(1) in paragraph (1), by adding at the end the following: "For each of the fiscal years 1988 through 1990, each agreement entered into under this title shall provide for some sale for foreign currencies for use under section 108 (except for agreements with a country the President determines is incapable of participating in section 108) unless the President determines that the level of agricultural commodities furnished under title I will be significantly reduced as a result of this sentence."; and

(2) in paragraph (2), by inserting ", or enter into sales agreements not providing for sales for foreign currencies for use under section 108," after "currencies".

SEC. 9. TERMS AND CONDITIONS OF AGREEMENTS WITH FRIENDLY COUNTRIES AND ORGANIZATIONS.

Section 103 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1703) is amended—

(1) by striking out "and" at the end of subsection (p);

(2) by striking out the period at the end of subsection (q) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(r) give favorable consideration in the allocation of commodities under this title to countries promoting the private sector through the use of section 108.".

SEC. 10. CRITERIA OF SELF-HELP MEASURES.

The first sentence of section 109(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1709(a)) is amended—

(1) by striking out "and" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(12) promoting the conservation and study of biological diversity.".

SEC. 11. USE OF COOPERATIVES TO FURNISH COMMODITIES.

The third sentence of section 202(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722(a)) is amended by inserting "or cooperatives" after "voluntary agencies".

SEC. 12. NONEMERGENCY PROGRAMS UNDER TITLE II OF PUBLIC LAW 480.

The first sentence of section 206 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726) is amended by inserting after "extraordinary relief requirements," the following: "or for nonemergency programs conducted by nonprofit voluntary agencies or cooperatives,".

SEC. 13. REPORTS ON SALES AND BARTER AND USE OF FOREIGN CURRENCY PROCEEDS.

Section 206 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726) (as amended by section 655 of this Act) is further amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following:

"(b) Not later than February 15, 1988, and annually thereafter, the President shall report to Congress on sales and barter, and use of foreign currency proceeds, under this section and section 207 during the preceding fiscal year. Such report shall include information on—

"(1) the quantity of commodities furnished for such sale or barter;

"(2) the amount of funds (including dollar equivalents for foreign currencies) and value of services generated from such sales and barter in the preceding fiscal year;

"(3) how such funds and services were used;

"(4) the amount of foreign currency proceeds that were used under agreements under this section and section 207 in the preceding fiscal year, and the percentage of the quantity of all commodities and products furnished under this section and section 207 in such fiscal year such use represented;

"(5) the President's best estimate of the amount of foreign currency proceeds that will be used, under agreements under this section and section 207, in the then current fiscal year and the next following fiscal year (if all requests for such use are agreed to), and the percentage that such estimated use represents of the quantity of all commodities and products that the President estimates will be furnished under this section and section 207 in each such fiscal year;

"(6) the effectiveness of such sales, barter, and use during the preceding fiscal year in facilitating the distribution of commodities and products under this section and section 207;

"(7) the extent to which such sales, barter, or uses—

"(A) displace or interfere with commercial sales of United States agricultural commodities and products that otherwise would be made;

"(B) affect usual marketings of the United States;

"(C) disrupt world prices of agricultural commodities or normal patterns of trade with friendly countries; or

"(D) discourage local production and marketing of agricultural commodities in the countries in which commodities and products are distributed under this title; and

"(8) the President's recommendations, if any, for changes to improve the conduct of sales, barter, or use activities under this section and section 207.".

SEC. 14. USES OF FOREIGN CURRENCIES.

Section 207 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726a) is amended—

(1) in subsection (a), by inserting "or cooperative" after "agency";

(2) in subsection (b), by striking out "5 percent" and inserting in lieu thereof "10 percent"; and

(3) by adding at the end the following:

"(c) Foreign currencies generated from any partial or full sales or barter of commodities by a nonprofit voluntary agency or cooperative shall be used—

"(1) to transport, store, distribute, and otherwise enhance the effectiveness of the use of commodities and the products thereof donated under this title; and

"(2) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities.".

SEC. 15. PERIODS FOR REVIEW AND COMMENT.

Title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.) is amended by adding at the end thereof the following:

"SEC. 208. PERIODS FOR REVIEW AND COMMENT.

"(a) RESPONSE.—If a proposal to make agricultural commodities available under this title is submitted by a nonprofit voluntary agency or cooperative with the concurrence of the appropriate United States Government field mission or if a proposal to make agricultural commodities available to a nonprofit voluntary agency or cooperative is submitted by the United States Government field mission, a decision on the proposal shall be provided within 45 days after receipt by the Agency for International Development office in Washington, D.C. The response shall detail the reasons for approval or denial of the proposal. If the proposal is denied, the response shall specify the conditions that would need to be met for the proposal to be approved.

"(b) NOTICE AND COMMENT.—Not later than 30 days before the issuance of a final guideline to carry out this title, the President shall—

"(1) provide notice of the proposed guideline to nonprofit voluntary agencies and cooperatives that participate in programs under this title, and other interested persons, that the proposed guideline is available for review and comment;

"(2) make the proposed guideline available, on request, to the agencies, cooperatives, and others; and

"(3) take any comments received into consideration before the issuance of the final guideline.

"(c) DEADLINE FOR SUBMISSION OF COMMODITY ORDERS.—Not later than 15 days after receipt of a call forward from a field mission for commodities or products that meets the requirements of this title, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.".

Approved December 22, 1987.

LEGISLATIVE HISTORY—H.J. Res. 395

HOUSE REPORTS: No. 100-415 (Comm. on Appropriations) and No. 100-498 (Comm. of Conference).
SENATE REPORT No. 100-238 (Committee on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 29, reported in the House.
Dec. 3, considered and passed House.
Dec. 8, reported in the Senate.
Dec. 11, 12, considered and passed Senate, amended.
Dec. 22, conference report filed in the House; House agreed to conference report; and Senate agreed to conference report.

Grand total, new budget (obligational) authority, Fourth Further Continuing Appropriations, 1988 (Public Law 100-202) $200,000

NOTE.—The following tabulation is a classification by departments and establishments of new budget (obligational) authority made in the foregoing resolution:

Department or establishment	Amount
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, 1988 (H.R. 2763) (pp. 132-172)	[1] $13,904,995,933
Department of Defense Appropriation Bill, 1988 (H.R. 3576) (pp. 172-214)	[2] 275,451,818,000
District of Columbia Appropriation Bill, 1988 (H.R. 2713) (pp. 214-228):	
Federal funds	[3] 550,000,000
(District of Columbia funds)	[3] *(3,154,014,000)*
Energy and Water Development Appropriation Bill, 1988 (H.R. 2700) (pp. 228-253)	[4] 15,613,598,000
Foreign Operations, Export Financing, and Related Programs Appropriations Bill, 1988 (H.R. 3186) (pp. 253-305)	[5] 13,598,746,741
Department of Housing and Urban Development—Independent Agencies Appropriation Bill, 1988 (H.R. 2783) (pp. 305-330)	[6] 56,564,546,000
Department of the Interior and Related Agencies Appropriations Bill, 1988 (H.R. 2712) (pp. 331-371)	[7] 9,827,216,000
Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Bill, 1988 (H.R. 3058) (pp. 371-404)	[8] 128,245,381,000
Legislative Branch Appropriations Bill, 1988 (H.R. 2714) (pp. 404-423)	[9] 1,745,501,500
Military Construction Appropriation Bill, 1988 (H.R. 2906) (pp. 423-434)	[10] 8,279,000,000
Rural Development, Agriculture, and Related Agencies Appropriation Bill, 1988 (H.R. 3520) (pp. 434-468)	[11] 52,355,502,000
Department of Transportation and Related Agencies Appropriation Bill, 1988 (H.R. 2890) (pp. 468-499)	[12] 10,623,055,000
Treasury, Postal Service, and General Government Appropriations Bill, 1988 (H.R. 2907) (pp. 499-537)	[13] 15,115,699,000
Assistance to the Nicaraguan Democratic Resistance *(by transfer)* (pp. 541-546)	*(8,100,000)*
Agricultural Aid and Trade Missions Act: Agricultural Aid and Trade Missions (pp. 549-554)	200,000
Grand total, new budget (obligational) authority, Fourth Further Continuing Appropriations, 1988	601,875,259,174

See footnotes on next page.

Department or establishment	Amount
Less amounts for appropriation acts having separate extended bill and table VIII's in this volume:	
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, 1988 (H.R. 2763) (see pp. 91–92 and pp. 2441–2448)	−$13,904,995,933
Department of Defense Appropriation Bill, 1988 (H.R. 3576) (see pp. 93–94 and pp. 2449–2452)	−275,451,818,000
District of Columbia Appropriation Bill, 1988 (H.R. 2713) (see pp. 95–96 and pp. 2453–2454):	
Federal funds	−550,000,000
(District of Columbia funds)	*(−3,154,014,000)*
Energy and Water Development Appropriation Bill, 1988 (H.R. 2700) (see pp. 97–98 and pp. 2455–2457)	−15,613,598,000
Foreign Operations, Export Financing, and Related Programs Appropriations Bill, 1988 (H.R. 3186) (see pp. 99–100 and pp. 2458–2461)	−13,598,746,741
Department of Housing and Urban Development—Independent Agencies Appropriation Bill, 1988 (H.R. 2783) (see pp. 101–102 and pp. 2462–2466)	−56,564,546,000
Department of the Interior and Related Agencies Appropriations Bill, 1988 (H.R. 2712) (see pp. 103–104 and pp. 2467–2472)	−9,827,216,000
Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Bill, 1988 (H.R. 3058) (see pp. 105–107 and pp. 2473–2480)	−128,245,381,000
Legislative Branch Appropriations Bill, 1988 (H.R. 2714) (see p. 109 and pp. 2481–2486)	−1,745,501,500
Military Construction Appropriation Bill, 1988 (H.R. 2906) (see p. 111 and pp. 2487–2488)	−8,279,000,000
Rural Development, Agriculture, and Related Agencies Appropriation Bill, 1988 (H.R. 3520) (see pp. 113–114 and pp. 2489–2495)	−52,355,502,000
Department of Transportation and Related Agencies Appropriation Bill, 1988 (H.R. 2890) (see pp. 115–116 and pp. 2496–2500)	−10,623,055,000
Treasury, Postal Service, and General Government Appropriations Bill, 1988 (H.R. 2907) (see pp. 117–119 and pp. 2501–2503)	−15,115,699,000
Subtotal, deductions (regular annual appropriation bills, 1988)	−601,875,059,174
Net total, new budget (obligational) authority, Fourth Further Continuing Appropriations, 1988	200,000

[1] Although new budget (obligational) authority is provided in this joint resolution (Public Law 100-202) for programs and activities in H.R. 2763, which was not enacted into law, a separate extended bill and table VIII for H.R. 2763 are included in this volume on pp. 91-92 and pp. 2441-2448.

[2] Although new budget (obligational) authority is provided in this joint resolution (Public Law 100-202) for programs and activities in H.R. 3576, which was not enacted into law, a separate extended bill and table VIII for H.R. 3576 are included in this volume on pp. 93-94 and pp. 2449-2452.

[3] Although new budget (obligational) authority is provided in this joint resolution (Public Law 100-202) for programs and activities in H.R. 2713, which was not enacted into law, a separate extended bill and table VIII for H.R. 2713 are included in this volume on pp. 95-96 and pp. 2453-2454.

[4] Although new budget (obligational) authority is provided in this joint resolution (Public Law 100-202) for programs and activities in H.R. 2700, which was not enacted into law, a separate extended bill and table VIII for H.R. 2700 are included in this volume on pp. 97-98 and pp. 2455-2457.

[5] Although new budget (obligational) authority is provided in this joint resolution (Public Law 100-202) for programs and activities in H.R. 3186, which was not enacted into law, a separate extended bill and table VIII for H.R. 3186 are included in this volume on pp. 99-100 and pp. 2458-2461.

[6] Although new budget (obligational) authority is provided in this joint resolution (Public Law 100-202) for programs and activities in H.R. 2783, which was not enacted into law, a separate extended bill and table VIII for H.R. 2783 are included in this volume on pp. 101-102 and pp. 2462-2466.

[7] Although new budget (obligational) authority is provided in this joint resolution (Public Law 100-202) for programs and activities in H.R. 2712, which was not enacted into law, a separate extended bill and table VIII for H.R. 2712 are included in this volume on pp. 103-104 and pp. 2467-2472.

[8] Although new budget (obligational) authority is provided in this joint resolution (Public Law 100-202) for programs and activities in H.R. 3058, which was not enacted into law, a separate extended bill and table VIII for H.R. 3058 are included in this volume on pp. 105-107 and pp. 2473-2480.

[9] Although new budget (obligational) authority is provided in this joint resolution (Public Law 100-202) for programs and activities in H.R. 2714, which was not enacted into law, a separate extended bill and table VIII for H.R. 2714 are included in this volume on p. 109 and pp. 2481-2486.

[10] Although new budget (obligational) authority is provided in this joint resolution (Public Law 100-202) for programs and activities in H.R. 2906, which was not enacted into law, a separate extended bill and table VIII for H.R. 2906 are included in this volume on p. 111 and pp. 2487-2488.

[11] Although new budget (obligational) authority is provided in this joint resolution (Public Law 100-202) for programs and activities in H.R. 3520, which was not enacted into law, a separate extended bill and table VIII for H.R. 3520 are included in this volume on pp. 113-114 and pp. 2489-2495.

[12] Although new budget (obligational) authority is provided in this joint resolution (Public Law 100-202) for programs and activities in H.R. 2890, which was not enacted into law, a separate extended bill and table VIII for H.R. 2890 are included in this volume on pp. 115-116 and pp. 2496-2500.

[13] Although new budget (obligational) authority is provided in this joint resolution (Public Law 100-202) for programs and activities in H.R. 2907, which was not enacted into law, a separate extended bill and table VIII for H.R. 2907 are included in this volume on pp. 117-119 and pp. 2501-2503.

HAND ENROLLMENT OF THE BUDGET RECONCILIATION BILL AND THE FULL-YEAR CONTINUING RESOLUTION FOR FISCAL YEAR 1988

Public Law 100-199

100th Congress, H.J. Res. 426

December 21, 1987

JOINT RESOLUTION

Authorizing the hand enrollment of the budget reconciliation bill and of the full-year continuing resolution for fiscal year 1988.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, during the remainder of the first session of the One Hundredth Congress, the provisions of sections 106 and 107 of title 1, United States Code, with respect to the printing (on parchment or otherwise) of the enrollment of the bill H.R. 3545 of the One Hundredth Congress (or any other bill providing for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 1988) and of the joint resolution H.J. Res. 395 of the One Hundredth Congress (or any other bill providing for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 1988) and of the joint resolution H.J. Res. 395 of the One Hundredth Congress (or any other joint resolution making continuing appropriations for fiscal year 1988) are waived, and the enrollment of any such bill or joint resolution shall be in such form as the Committee on House Administration certifies to be a true enrollment.

Approved December 21, 1987.

LEGISLATIVE HISTORY—H.J. RES. 426

CONGRESSIONAL RECORD, Vol. 133 (1987):
Dec. 16, considered and passed House.
Dec. 17, considered and passed Senate.

100th Congress, 1st Session - - - - - - - - - House Document 100-106

CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS, SEPTEMBER 1, 1987

COMMUNICATION

FROM

THE DIRECTOR, THE OFFICE OF MANAGEMENT AND BUDGET

TRANSMITTING

THE CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS OF BUDGET AUTHORITY AS OF SEPTEMBER 1, 1987, PURSUANT TO 2 U.S.C. 685(e)

SEPTEMBER 16, 1987.—Referred to the Committee on Appropriations and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

91-011 WASHINGTON : 1987

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

September 10, 1987

Honorable Jim Wright
Speaker of the House of
Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

In accordance with Executive Order 11845, I am transmitting the cumulative report required by Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974. In accordance with the Act, the report is also being transmitted to the Senate and will be published in the Federal Register.

Sincerely yours,

James C. Miller III
Director

Enclosure

IDENTICAL LETTER SENT TO THE PRESIDENT OF THE SENATE

CUMULATIVE REPORT ON
RESCISSIONS AND DEFERRALS

September 1, 1987

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Public Law 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of August 1, 1987, of 57 deferrals contained in the six special messages of FY 1987. These messages were transmitted to the Congress on September 26, and December 15, 1986, and January 5 and 28, March 4, and August 27, 1987.

Rescissions (Table A and Attachment A)

As of September 1, 1987, there were no rescission proposals pending before the Congress.

Deferrals (Table B and Attachment B)

As of September 1, 1987, $2,875.6 million in 1987 budget authority was being deferred from obligation. Attachment B shows the history and status of each deferral reported during FY 1987.

Information from Special Messages

The special message containing information on the deferrals covered by this cumulative report is printed in the Federal Register listed below:

Vol. 51, FR p. 35976, Tuesday, October 7, 1986
Vol. 51, FR p. 47356, Wednesday, December 31, 1986
Vol. 52, FR p. 964, Friday, January 9, 1987
Vol. 52, FR p. 3552, Wednesday, February 4, 1987
Vol. 52, FR p. 8046, Friday, March 13, 1987
Vol. 52, FR p. 33374, Wednesday, September 2, 1987

TABLE A

STATUS OF 1987 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President.....	$5,835.8
Accepted by the Congress.....	36.0
Rejected by the Congress.....	5,799.8
Pending before the Congress.....	0

****

TABLE B

STATUS OF 1987 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President.....	11,494.6
Routine Executive releases through Sept. 1, 1987 (OMB/Agency releases of $8,446.5 million and cumulative adjustments of $1.7 million)	-8,444.7
Overturned by the Congress.....	-174.3
Currently before the Congress.....	2,875.6

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1987

As of September 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF AGRICULTURE								
Agricultural Research Service								
Buildings and facilities	R87-1	28,000		1-5-87		28,000	3-16-87	
	R87-1A			1-28-87				
Agricultural Stabilization and Conservation Service								
Rural clean water program	R87-2	6,000		1-5-87	6,000	6,000	3-16-87	P.L. 100-71
Agricultural conservation program	R87-3	164,356		1-5-87		164,356	3-16-87	
Water bank program	R87-4	8,166		1-5-87		8,166	3-16-87	
Emergency conservation program	R87-5	10,000		1-5-87		10,000	3-16-87	
Farmers Home Administration								
Rural water and waste disposal grants	R87-6	79,500		1-5-87		79,500	3-16-87	
Rural community fire protection grants	R87-7	2,300		1-5-87		2,300	3-16-87	
Rural housing for domestic farm labor	R87-8	7,400		1-5-87		7,400	3-16-87	
Mutual and self-help housing	R87-9	8,000		1-5-87		8,000	3-16-87	
Very low income housing repair grants	R87-10	9,400		1-5-87		9,400	3-16-87	
Compensation for construction defects	R87-11	500		1-5-87		500	3-16-87	
Rural housing preservation grants	R87-12	14,400		1-5-87		14,400	3-16-87	
Soil Conservation Service								
Watershed and flood prevention operations	R87-13	96,000		1-5-87		96,000	3-16-87	
Great Plains conservation program	R87-14	8,000		1-5-87		8,000	3-16-87	
Resource conservation and development	R87-15	5,000		1-5-87		5,000	3-16-87	
Forest Service								
Land acquisition	R87-16	49,030		1-5-87		49,030	3-16-87	
DEPARTMENT OF COMMERCE								
Economic Development Administration								
Economic development assistance programs	R87-17	169,718		1-5-87				
	R87-17A	-50		1-28-87		169,668	3-16-87	
International Trade Administration								
Operations and administration	R87-18	11,400		1-5-87		11,400	3-16-87	
National Oceanic and Atmospheric Administration								
Operations, research, and facilities	R87-19	58,857		1-5-87		58,857	3-16-87	
National Telecommunications and Information Administration								
Public telecommunications facilities, planning and construction	R87-20	19,300		1-5-87		19,300	3-16-87	
DEPARTMENT OF DEFENSE - MILITARY								
Procurement								
Procurement of weapons and tracked combat vehicles, Army	R87-21	15,000		1-5-87		15,000	3-16-87	
Other procurement, Navy	R87-22	116,000		1-5-87		116,000	3-16-87	
Military Construction								
Military construction, Air Force	R87-23	2,750		1-5-87		2,750	3-16-87	
DEPARTMENT OF DEFENSE - CIVIL								
Corps of Engineers - Civil								
Construction, general	R87-24	7,715		1-5-87		7,715	3-16-87	
DEPARTMENT OF EDUCATION								
Office of Elementary and Secondary Education								
Compensatory education for the disadvantaged	R87-25	7,500		1-5-87		7,500	3-16-87	
Impact aid	R87-26	17,500		1-5-87		17,500	3-16-87	
Special programs	R87-27	54,980		1-5-87		54,980	3-16-87	
Office of Bilingual Education and Minority Languages Affairs								
Bilingual education	R87-28	45,886		1-5-87		45,886	3-16-87	
Office of Special Education and Rehabilitative Services								
Education for the handicapped	R87-29	288,659		1-5-87		288,659	3-16-87	
Rehabilitation services and handicapped research	R87-30	127,455		1-5-87		127,455	3-16-87	
Office of Vocational and Adult Education								
Vocational and adult education	R87-31	432,319		1-5-87		432,319	3-16-87	
Office of Postsecondary Education								
Student financial assistance	R87-32	1,269,000		1-5-87		1,269,000	3-16-87	
Higher education	R87-33	203,050		1-5-87		203,050	3-16-87	
	R87-33A			1-28-87				
Office of Educational Research and Improvement								
Libraries	R87-34	34,500		1-5-87		34,500	3-16-87	
DEPARTMENT OF ENERGY								
Energy Programs								
Energy supply, research and development activities	R87-35	81,800		1-5-87		81,800	3-16-87	
Fossil energy research and development	R87-36	44,464		1-5-87		44,464	3-16-87	
Energy conservation	R87-37	87,433		1-5-87				
	R87-37A	-3500		1-28-87		83,933	3-16-87	
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Food and Drug Administration								
Buildings and facilities	R87-38	[illegible]		1-5-87		800	3-16-87	
Health Resources and Services Administration								
Health resources and services	R87-39	161,210		1-5-87		161,210	3-16-87	
	R87-39A			1-28-87				
Indian health facilities	R87-40	57,100		1-5-87		57,100	3-16-87	
	R87-40A			1-28-87				

Attachment A - Status of Rescissions - Fiscal Year 1987

As of September 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
National Institutes of Health								
National Library of Medicine	R87-41	5,405		1-5-87		5,405	3-16-87	
Office of the Assistant Secretary of Health								
Public health service management	R87-42	5,000		1-5-87		5,000	3-16-87	
Departmental Management								
Policy research	R87-43	2,200		1-5-87		2,200	3-16-87	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Annual contributions for assisted housing	R87-44	473,313		1-5-87		473,313	3-16-87	
Housing counseling assistance	R87-45	3,500		1-5-87		3,500	3-16-87	
Community Planning and Development								
Community development grants	R87-46	375,200		1-5-87		375,200	3-16-87	
Urban development action grants	R87-47	237,500		1-5-87		237,500	3-16-87	
Management and Administration								
Salaries and expenses	R87-48	19,042		1-5-87		19,042	3-16-87	
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Management of lands and resources	R87-49	6,500		1-5-87		6,500	3-16-87	
Construction and access	R87-50	1,600		1-5-87		1,600	3-16-87	
Land acquisition	R87-51	2,700		1-5-87		2,700	3-16-87	
Bureau of Mines								
Mines and minerals	R87-52	16,594		1-5-87		16,594	3-16-87	
United States Fish and Wildlife Service								
Resource management	R87-53	20,500		1-5-87		20,500	3-16-87	
	R87-53A			1-28-87				
Construction	R87-54	23,200		1-5-87		23,200	3-16-87	
Land acquisition	R87-55	26,762		1-5-87		26,762	3-16-87	
National Park Service								
Operation of the national park system	R87-56	7,950		1-5-87		7,950	3-16-87	
Construction	R87-57	58,981		1-5-87		58,981	3-16-87	
Land acquisition	R87-58	97,638		1-5-87	30,000	97,638	3-16-87	P.L. 100-71
Historic preservation fund	R87-59	15,000		1-5-87		15,000	3-16-87	
Bureau of Indian Affairs								
Construction	R87-60	22,811		1-5-87		22,811	3-16-87	
Territorial and International Affairs								
Administration of territories	R87-61	2,500		1-5-87		2,500	3-16-87	
DEPARTMENT OF JUSTICE								
Immigration and Naturalization Service								
Salaries and expenses	R87-62	24,598		1-5-87		24,598	3-16-87	
DEPARTMENT OF LABOR								
Employment and Training Administration								
Training and employment services	R87-63	332,000		1-5-87		332,000	3-16-87	
DEPARTMENT OF THE TREASURY								
Federal Law Enforcement Training Center								
Salaries and expenses	R87-64	8,450		1-5-87		8,450	3-16-87	
Bureau of Alcohol, Tobacco, and Firearms								
Salaries and expenses	R87-65	15,000		1-5-87		15,000	3-16-87	
United States Customs Service								
Salaries and expenses	R87-66	38,945		1-5-87		38,945	3-16-87	
ENVIRONMENTAL PROTECTION AGENCY								
Abatement, control, and compliance	R87-67	47,500		1-5-87		47,500	3-16-87	
Buildings and facilities	R87-68	2,500		1-5-87		2,500	3-16-87	
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION								
Research and development	R87-69	25,796		1-5-87		25,796	3-16-87	
VETERANS ADMINISTRATION								
Medical care	R87-70	75,000		1-5-87		(See Note Below)		
OTHER INDEPENDENT AGENCIES								
Appalachian Regional Commission								
Appalachian regional development programs	R87-71	31,059		1-5-87		31,059	3-16-87	
National Endowment for the Humanities								
National capital arts and cultural affairs	R87-72	4,000		1-5-87		4,000	3-16-87	
Selective Service System								
Salaries and expenses	R87-73	409		1-5-87		409	3-17-87	
Total, rescissions		5,835,751	0		36,000	5,760,751		

NOTE. - The $75 million proposed for rescission in Rescission Proposal No. R87-70 was never withheld from obligation. Therefore, there was no need to release the funds on March 16.

Attachment B - Status of Deferrals - Fiscal Year 1987

As of September 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 9-1-87
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Foreign military sales credit	D87-22	4,040,441		12-15-86	3,849,500				190,941
Economic support fund	D87-1	95,000		9-26-86					
	D87-1A		2,351,470	12-15-86	2,057,665			1,000	389,805
Military assistance	D87-23	847,000		12-15-86	720,797				126,203
International military education and training	D87-24	2,000		12-15-86	2,000				0
Agency for International Development									
Functional development assistance	D87-32	2,278		1-28-87	2,278				0
International disaster assistance	D87-25	57,000		12-15-86	55,180				1,820
Special Assistance for Central America									
Assistance for the Nicaraguan Democratic Resistance	D87-26	60,000		12-15-86	60,000				0
Promotion of stability and security in Central America	D87-27	1,000		12-15-86					1,000
DEPARTMENT OF AGRICULTURE									
Commodity Credit Corporation									
Temporary emergency food assistance	D87-33	28,559		1-28-87		28,559	P.L. 100-6		0
Rural Electrification Administration									
Reimbursement to the Rural electrification and telephone and revolving fund for interest subsidies and losses	D87-34	20,000		1-28-87	20,000				0
Forest Service									
State and private forestry	D87-35	797		1-28-87		797	P.L. 100-71		0
Land acquisition	D87-36	27,070		1-28-87		27,070	P.L. 100-71		0
Expenses, brush disposal	D87-2	111,202		9-26-86					
	D87-2A		1,534	3-4-87					112,736
Timber roads, purchaser election	D87-37	11,900		1-28-87		11,900	P.L. 100-71		0
Timber salvage sales	D87-3	29,731		9-26-86	6,113			3	23,621
Cooperative work	D87-4	526,938		9-26-86					
	D87-4A		8,336	3-4-87					
	D87-4B		516	8-27-87					535,791
Gifts, donations, and bequests for forest and rangeland research	D87-5	200		9-26-86	96				104
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, Defense	D87-6	2,350		9-26-86					
	D87-6A		1,316,152	12-15-86	1,281,553				36,949
Family Housing									
Family housing, Defense	D87-7	76,943		9-26-86					
	D87-7A		190,022	12-15-86	210,650				56,315
DEPARTMENT OF DEFENSE - CIVIL									
Soldiers' and Airmen's Home									
Capital outlays	D87-38	1,132		1-28-87	1,132				0
Wildlife Conservation, Military Reservations									
Wildlife conservation	D87-8	1,065		9-26-86					
	D87-8A		25	1-5-87					
	D87-8B		46	3-4-87	316				820
DEPARTMENT OF ENERGY									
Power Marketing Administration									
Alaska Power Administration, Operation and maintenance	D87-9	165		9-26-86					165
Southwestern Power Administration,									
Operation and maintenance	D87-10	7,554		9-26-86					
	D87-10A		6,106	1-5-87					13,660
Western Area Power Administration, Construction, rehabilitation, operation and maintenance	D87-29	4,485		1-5-87					4,485
Departmental Administration									
Departmental administration	D87-30	24,182		1-5-87					24,182
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Health Resources and Services Administration									
Indian catastrophic health emergency fund	D87-28	10,000		12-15-86	10,000				0
Centers for Disease Control									
Disease control, research, and training	D87-39	2,428		1-28-87	2,428				0
Alcohol, Drug Abuse, and Mental Health Administration									
Alcohol, drug abuse, and mental health	D87-40	10,000		1-28-87	10,000				0
Office of Assistant Secretary for Health									
Scientific activities overseas (special foreign currency program)	D87-11	2,900		9-26-86					2,900
Social Security Administration									
Limitation on administrative expenses (construction)	D87-12	7,073		9-26-86					
	D87-12A		89	1-28-87	12				7,151
Limitation on administrative expenses (information technology systems)	D87-57	134,437		3-4-87					
	D87-57A		36,482	8-27-87					170,919

Attachment B - Status of Deferrals - Fiscal Year 1987

As of September 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 9-1-87
DEPARTMENT OF THE INTERIOR									
Bureau of Land Management									
Payments for proceeds, sale of Mineral Leasing Act of 1920, Section 40(d).....	D87-31	49		1-5-87					49
DEPARTMENT OF JUSTICE									
Office of Justice Programs									
Crime victims fund.....	D87-13	70,000		9-26-86					70,000
DEPARTMENT OF LABOR									
Employment Standards Administration									
Salaries and expenses.....	D87-41	9,659		1-28-87	9,659				0
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive.....	D87-14	6,100		9-26-86					
	D87-14A		14,000	1-5-87	8,462				11,638
Other									
Assistance for implementation of a Contadora agreement.....	D87-15	2,000		9-26-86	2,000				0
DEPARTMENT OF TRANSPORTATION									
Federal Railroad Administration									
Rail service assistance.....	D87-42	462		1-28-87		462 P.L. 100-71			0
Railroad safety.....	D87-43	1,101		1-28-87	1,101				0
Conrail labor protection.....	D87-44	646		1-28-87	646				0
Northeast corridor improvement program.....	D87-45	16,962		1-28-87		16,962 P.L. 100-71			0
Conrail commuter transition assistance.....	D87-46	10,000		1-28-87		10,000 P.L. 100-71			0
Urban Mass Transportation Administration									
Research, training and human resources.....	D87-47	4,336		1-28-87		4,336 P.L. 100-71			0
Interstate transfer grants - transit.....	D87-48	51,800		1-28-87		51,800 P.L. 100-71			0
Federal Aviation Administration									
Operation and maintenance, Metropolitan Washington Airports.....	D87-49	12,214		1-28-87	12,214				0
Facilities and equipment (Airport and airway trust fund).....	D87-16	803,877		9-26-86					
	D87-16A		295,611	12-15-86	19,996				1,079,492
Coast Guard									
Research, development, test, and evaluation.....	D87-50	5,000		1-28-87	5,000				0
Offshore oil pollution compensation fund...	D87-51	2,154		1-28-87	2,154				0
Deepwater port liability fund.....	D87-52	5,176		1-28-87	5,176				0
Office of the Secretary									
Payments to air carriers.....	D87-53	10,748		1-28-87	10,748				0
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
Local government fiscal assistance trust fund.....	D87-17	74,149		9-26-86	71,221			5	2,933
Local government fiscal assistance trust fund.....	D87-21	5,981		9-26-86	6,704			723	0
ENVIRONMENTAL PROTECTION AGENCY									
Research and development.....	D87-54	11,000		1-28-87		11,000 P.L. 100-71			0
Abatement, control, and compliance.....	D87-55	11,400		1-28-87		11,400 P.L. 100-71			0
OTHER INDEPENDENT AGENCIES									
Commission on the Ukraine Famine									
Salaries and expenses.....	D87-18	100		9-26-86	100				0
Office of the Federal Inspector for the Alaska Natural Gas Transportation System,									
Salaries and expenses.....	D87-19	411		9-26-86	411				0
Pennsylvania Avenue Development Corporation									
Land acquisition and development fund.....	D87-20	11,873		9-26-86					11,873
United States Railway Association									
Administrative expenses.....	D87-56	1,155		1-28-87	1,155				0
TOTAL, DEFERRALS.....		7,274,185	4,220,390		8,446,467	174,286		1,731	2,875,553

Note: All of the above amounts represent budget authority except the Local Government Fiscal Assistance Trust Fund (D87-21) of outlays only.

100th Congress, 2d Session - - - - - - - - - - House Document 100-159

CUMULATIVE REPORTS ON RESCISSIONS AND DEFERRALS, JANUARY 1, 1988

COMMUNICATION

FROM

THE DIRECTOR, THE OFFICE OF MANAGEMENT AND BUDGET

TRANSMITTING

THE CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS OF BUDGET AUTHORITY AS OF JANUARY 1, 1988, PURSUANT TO 2 U.S.C. 685(e)

JANUARY 25, 1988.—Referred to the Committee on Appropriations and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

19-012 WASHINGTON : 1988

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

Honorable Jim Wright
Speaker of the House of
Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

In accordance with Executive Order 11845, I am transmitting the cumulative report required by Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974. In accordance with the Act, the report is also being transmitted to the Senate and will be published in the Federal Register.

Sincerely yours,

James C. Miller III
Director

Enclosure

IDENTICAL LETTER SENT TO THE PRESIDENT OF THE SENATE

CUMULATIVE REPORT ON
RESCISSIONS AND DEFERRALS

January 1, 1988

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Public Law 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of January 1, 1988 of 19 deferrals contained in the two special messages of FY 1988. There have been no rescissions proposed. These messages were transmitted to the Congress on October 1 and 29, 1987.

Rescissions (Table A and Attachment A)

As of January 1, 1988, there were no rescission proposals pending before the Congress.

Deferrals (Table B and Attachment B)

As of January 1, 1988, $1,819 million in budget authority was being deferred from obligation. Attachment B shows the history and status of each deferral reported during FY 1988.

Information from Special Messages

The special messages containing information on the deferrals covered by this cumulative report are printed in the Federal Registers listed below:

Vol. 52, FR p. 37739, Thursday, October 8, 1987
Vol. 52, FR p. 42400, Wednesday, November 4, 1987

TABLE A

STATUS OF 1983 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	0
Accepted by the Congress	0
Rejected by the Congress	0
Pending before the Congress	0

****

TABLE B

STATUS OF 1988 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	1,873.0
Routine Executive releases through January 1, 1987 (OMB/Agency releases of $54.3 million and cumulative adjustments of $0)	-54.3
Overturned by the Congress	0
Currently before the Congress	1,818.8

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1988

As of January 1, 1988 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
NONE								

Attachment B - Status of Deferrals - Fiscal Year 1988

As of January 1, 1988 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 01-1-88
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	D88-1	40,000		10-1-87	35,000				5,000
Special Assistance for Central America									
Promotion of stability and security in Central America	D88-2	1,000		10-1-87					1,000
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal	D88-3	120,425		10-1-87					120,425
Timber salvage sales	D88-4	34,841		10-1-87	10,456				24,385
Cooperative work	D88-5	628,025		10-1-87					628,025
Gifts, donations, and bequests for forest and rangeland research	D88-6	104		10-1-87					104
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, Defense	D88-7	900		10-1-87					900
Family Housing									
Family housing, Defense	D88-8	51,015		10-1-87					51,015
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense	D88-9	636		10-1-87					636
DEPARTMENT OF ENERGY									
Power Marketing Administration									
Alaska Power Administration, Operation and maintenance	D88-14	120		10-29-87					120
Southeastern Power Administration, Operation and maintenance	D88-15	2,000		10-29-87	2,000				0
Southwestern Power Administration, Operation and maintenance	D88-16	6,000		10-29-87					6,000
Western Area Power Administration, Construction, rehabilitation, operation and maintenance	D88-17	774		10-29-87					774
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Office of Assistant Secretary for Health									
Scientific activities overseas (special foreign currency program)	D88-18	2,391		10-29-87					2,391
Social Security Administration									
Limitation on administrative expenses (construction)	D88-10	6,171		10-1-87					6,171
DEPARTMENT OF JUSTICE									
Office of Justice Programs									
Crime victims fund	D88-19	85,000		10-29-87	6,800				78,200
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive	D88-11	11,638		10-1-87					11,638
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund)	D88-12	879,049		10-1-87					879,049

Attachment B - Status of Deferrals - Fiscal Year 1988

As of January 1, 1988 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 01-1-88
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
Local government fiscal assistance trust fund	D88-13	2,933		10-1-87					2,933
TOTAL, DEFERRALS		1,873,023	0		54,256	0		0	1,818,767

DEFERRAL RESOLUTIONS

CLERK'S NOTE: There were no *separate* deferral resolutions acted upon by the Committees on Appropriations during the 100th Congress, 1st session.

Public Law 100-28
100th Congress

101 STAT. 291

An Act

To amend the Food Security Act of 1985 to extend the date for submitting the report required by the National Commission on Dairy Policy.

Apr. 24, 1987
[H.R. 1123]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Agriculture and agricultural commodities.

SECTION 1. NATIONAL COMMISSION ON DAIRY POLICY.

(a) EXTENSION OF REPORTING DATE.—Section 143(c) of the Food Security Act of 1985 (7 U.S.C. 1446 note) is amended by striking out "1987" and inserting in lieu thereof "1988".

(b) LEASING AND CONTRACTING AUTHORITY.—Section 144 of such Act (7 U.S.C. 1446 note) is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding any other provision of law, to the extent there are sufficient funds available to the Commission under section 145 and subject to such rules as may be adopted by the Commission, the Commission may— 7 USC 1446 note.

"(1) lease office space in the District of Columbia; and District of Columbia.

"(2) procure temporary or intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code.".

SEC. 2. PHASE IN OF CONSERVATION PLANNING PROCESS FOR PRODUCERS PLANTING ALFALFA.

(a) Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812(b)) is amended by striking the period at the end of subsection (b) and inserting in lieu thereof "; or" and (b) by adding the following new paragraph:

"(5) on highly erodible land planted to alfalfa during each of the 1981 through 1985 crop years as part of a rotation practice approved by the Secretary, if the person has submitted a conservation plan based on the local Soil Conservation Service technical guide and approved by the local soil conservation district, in consultation with the local committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) and the Secretary, such person shall have until June 1, 1988, to comply with the plan without being subject to program ineligibility under section 1211.". Conservation. 16 USC 3811.

SEC. 3. CONSERVATION PLAN FOR HIGHLY ERODIBLE LAND.

Section 1212(a)(2) of the Food Security Act of 1985 (16 U.S.C. 3812(a)(2)) is amended—

(1) by inserting after "conservation plan" the following: "that documents the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedule and that is"; and

101 STAT. 292

(2) by adding at the end thereof the following new sentence: "In carrying out this subsection, the Secretary, Soil Conservation Service, and local soil conservation districts shall minimize the quantity of documentation a person must submit to comply with this paragraph.".

Approved April 24, 1987.

LEGISLATIVE HISTORY—H.R. 1123 (S. 410):

HOUSE REPORTS: No. 100-9 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 3, considered and passed House.
Apr. 7, considered and passed Senate, amended, in lieu of S. 410.
Apr. 9, House concurred in Senate amendment.

101 STAT. 318

Public Law 100-45
100th Congress

An Act

May 27, 1987
[H.R. 1157]

To provide for an acreage diversion program applicable to producers of the crop of winter wheat harvested in 1987, and otherwise to extend assistance to farmers adversely affected by natural disasters in 1986.

Farm Disaster Assistance Act of 1987.
Agriculture and agricultural commodities.
7 USC 1421 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Disaster Assistance Act of 1987".

WHEAT ACREAGE DIVERSION

SEC. 2. Effective only for the 1987 crop of wheat, section 107D(c)(1)(C) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(C)) is amended by—

(1) in clause (i)—

(A) inserting ", or all of such permitted acreage (as provided in subclauses (II), (III), and (IV) of clause (ii))," after "permitted wheat acreage of the farm for the crop"; and

(B) in subclause (I) thereof, inserting "(or all)" after "such portion";

(2) in clause (ii)—

(A) inserting "(I)" after the clause designation;

(B) inserting "subclauses (II), (III), and (IV) of this clause and" before "clauses (iii) and (vii)"; and

(C) adding at the end thereof the following:

Conservation.

"(II) "Effective for the 1987 crop, producers of winter wheat on a farm shall not be subject to the 50 percent planting requirement, and may devote all or any portion of the farm's 1987 winter wheat permitted acreage to conservation uses (or other uses as provided in subparagraph (K)) under the program under this subparagraph.

Conservation.
Loans.

"(III) Effective for the 1987 crop, producers of wheat on a farm shall not be subject to the 50 percent planting requirement, and may devote all or any portion of the farm's 1987 permitted wheat acreage to conservation uses (or other uses as provided in subparagraph (K)) under the program under this subparagraph, if the farm is, during the normal planting season for such crop, subject to flooding on at least 50 percent of the permitted wheat acreage of the farm as the result of damage to a levee from flooding that occurred in 1986 and the farm is located in a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of such disaster.

Conservation.

"(IV) Effective for the 1987 crop, producers of wheat on a farm shall not be subject to the 50 percent planting requirement, and may

devote all or any portion of the farm's 1987 permitted wheat acreage to conservation uses (or other uses as provided in subparagraph (K)) under the program under this subparagraph, if the producers on the farm are prevented from planting such acreage, if intended for wheat, to wheat for harvest in 1987 because of a natural disaster in 1986 and the farm is located in a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of such disaster."; and 101 STAT. 319

(3) in clause (iv)—

(A) inserting "(or all)" after "such portion"; and

(B) inserting "under this subparagraph" after "subparagraph (K))".

FEED GRAIN ACREAGE DIVERSION

SEC. 3. Effective only for the 1987 crop of feed grains, section 105C(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1444e(c)(1)(B)) is amended by—

(1) in clause (i)—

(A) inserting ", or all of such permitted acreage (as provided in the second sentence of clause (ii))," after "permitted feed grain acreage of the farm for the crop"; and

(B) in subclause (I) thereof, inserting "(or all)" after "such portion";

(2) in clause (ii)—

(A) inserting "the following sentence and" before "clause (iii)"; and

(B) adding at the end thereof the following: "Effective for the 1987 crop, producers of feed grains on a farm shall not be subject to the 50 percent planting requirement, and may devote all or any portion of the farm's 1987 permitted feed grain acreage to conservation uses (or other uses as provided in subparagraph (I)) under the program under this paragraph, if the farm is, during the normal planting season for such crop, subject to flooding on at least 50 percent of the permitted feed grain acreage of the farm as the result of damage to a levee from flooding that occurred in 1986 and the farm is located in a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of such disaster."; and

Conservation.
Loans.

(3) in clause (iv)—

(A) inserting "(or all)" after "such portion"; and

(B) inserting "under this subparagraph" after "subparagraph (I))".

COTTON ACREAGE DIVERSION

SEC. 4. Effective only for the 1987 crop of upland cotton, section 103A(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1444-1(c)(1)(B)) is amended by—

(1) in clause (i)—

(A) inserting ", or all of such permitted acreage (as provided in subclause (II) of clause (ii))," after "permitted upland cotton acreage of the farm for the crop"; and

(B) in subclause (I), inserting "(or all)" after "such portion";

(2) in clause (ii)—

(A) inserting "(I)" after the clause designation;

(B) inserting "subclause (II) and" before "clause (iii)"; and 101 STAT. 320

(C) adding at the end thereof the following new subclause:

"(II) Effective for the 1987 crop, producers of upland cotton on a farm shall not be subject to the 50 percent planting requirement, and may devote all or any portion of the farm's 1987 permitted upland cotton acreage to conservation uses (or other uses as pro-

Conservation.
Loans.

vided in subparagraph (G)) under the program under this subparagraph, if the farm is, during the normal planting season for such crop, subject to flooding on at least 50 percent of the permitted upland cotton acreage of the farm as the result of damage to a levee from flooding that occurred in 1986 and the farm is located in a county in which producers are eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of such disaster."; and

(3) in clause (iv)—

(A) inserting "(or all)" after "such portion"; and

(B) inserting "under this subparagraph" after "subparagraph (G))".

RICE ACREAGE DIVERSION

SEC. 5. Effective only for the 1987 crop of rice, section 101A(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1444-1(c)(1)(B)) is amended by— 7 USC 1441-1.

(1) in clause (i)—

(A) inserting ", or all of such permitted acreage (as provided in subclause (II) of clause (ii))," after "permitted rice acreage of the farm for the crop"; and

(B) in subclause (I), inserting "(or all)" after "such portion";

(2) in clause (ii)—

(A) inserting "(I)" after the clause designation;

(B) inserting "subclause (II) and" before "clause (iii)"; and

(C) adding at the end thereof the following new subclause:

Conservation loans.

"(II) Effective for the 1987 crop, producers of rice on a farm shall not be subject to the 50 percent planting requirement, and may devote all or any portion of the farm's 1987 permitted rice acreage to conservation uses (or other uses as provided in subparagraph (G)) under the program under this subparagraph, if the farm is, during the normal planting season for such crop, subject to flooding on at least 50 percent of the permitted rice acreage of the farm as the result of damage to a levee from flooding that occurred in 1986 and the farm is located in a county in which producers are eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of such disaster."; and

(3) in clause (iv)—

(A) inserting "(or all)" after "such portion"; and

(B) inserting "under this subparagraph" after "subparagraph (G))".

FULL PAYMENTS FOR DISASTER LOSSES

Claims. Securities.

SEC. 6. Notwithstanding any other provision of law, the Secretary of Agriculture shall make full payment in the form of generic negotiable commodity certificates to eligible producers, using funds, facilities, and authorities of the Commodity Credit Corporation, on all qualifying claims for assistance under section 633(B) of the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in section 101(a) of Public Laws 99-500 and 99-591, and as amended by sections 7 and 11 of this Act, to the extent provided in advance in an appropriation Act. To the extent that partial payment on any such claim has been made prior to the date of enactment of this Act, the Secretary shall provide a supplemental payment to the producer under this section, as soon as practicable after the date of enactment of this Act, to cover the difference between the partial payment and the amount of the full claim.

101 STAT. 321

100 Stat. 1783-30, 3341-30. 100 Stat. 1783. 100 Stat. 3341.

DISASTER PAYMENTS

SEC. 7. Section 633(B) of the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in section 101(a) of Public Laws 99-500 and 99-591, is amended by— 100 Stat. 1783-30, 3341-30.

(1) in subsection (a)(5)—

(A) amending clause (ii) of subparagraph (B) to read as follows:

"(ii) with respect to soybeans, peanuts, sugar beets, and sugarcane—

"(I) except as provided in subclause (III), with respect to soybeans and peanuts, the acreage so affected but not to exceed the acreage planted in the immediately preceding year to soybeans or peanuts, respectively, for harvest including any acreage that the producer was prevented from planting to such commodity or to other nonconserving crops in lieu of soybeans or peanuts because of drought, excessive moisture, flood, hail, or other natural disaster, or other condition beyond the control of the producer;

"(II) with respect to sugar beets and sugarcane (including sugar beets or sugarcane produced by those producers who did not plant acreage to sugar beets or sugarcane during 1985 as the result of the bankruptcy of the Great Western Sugar Company), the acreage so affected; and

"(III) with respect to producers of soybeans and peanuts whose plantings of such commodities in 1985 were either prevented or below normal levels because of rotation practices carried out by such producers, the acreage so affected but not to exceed a quantity of acreage based on the historical plantings of such commodities as determined by the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b))."; and

(B) adding at the end thereof the following:

"(C) Any payments made available in accordance with subclause (II) or (III) of subparagraph (B)(ii) may be made only to the extent such payments are provided for in advance in an appropriation Act, as authorized under section 6 of the Farm Disaster Assistance Act of 1987.";

(2) in paragraph (1) of subsection (c), inserting "(including hay and straw that was harvested in 1986, stored on a field, and removed from the field by a flood)" after "commercial crops"; 101 STAT. 322

(3) striking out "1987." in paragraph (2) of subsection (d) and inserting in lieu thereof the following: "1987, except as provided in the following sentence. Applications for payments—

"(A) with respect to hay and straw referred to in subsection (c)(1) and crops of apples damaged by freezing;

"(B) made by producers under the last sentence of subsection (a)(5)(A)(ii) or under subclause (II) or (III) of subsection (a)(5)(B)(ii); and

"(C) with respect to program or nonprogram crops produced in the State of Maine, Maine.

must be filed on or before the date that is 30 days after the date of enactment of the Farm Disaster Assistance Act of 1987.";

(4) adding at the end of subsection (e) the following:

"(3) With respect to losses of hay and straw referred to in subsection (c)(1)—

"(A) payments may be made to producers only to the extent payments under this section are provided for in advance in an appropriation Act, as authorized under section 6 of the Farm Disaster Assistance Act of 1987;

"(B) the total amount of payments made to all producers may not exceed $1,000,000; and

"(C) the total amount of payments made to an individual producer may not exceed $20,000.

"(4) With respect to losses of apple crops under subsection (b), payments may be made to producers only to the extent payments under this section are provided for in advance in an appropriation Act, as authorized under section 6 of the Farm Disaster Assistance Act of 1987.

Maine.

"(5) With respect to losses of program or nonprogram crops produced in the State of Maine—

"(A) payments may be made to producers only to the extent payments under this section are provided for in advance in an appropriation Act, as authorized under section 6 of the Farm Disaster Assistance Act of 1987; and

"(B) the total amount of payments made to all producers may not exceed $1,000,000."; and

(5)(A) in paragraph (1) of subsection (b), inserting "and (with respect to apple crops) freeze," after "excessive moisture,";

(B) in paragraph (2)(A) of subsection (b) inserting "or (with respect to apple crops) freeze," after "excessive moisture,"; and

(C) in paragraph (1)(B) of subsection (c), inserting "freeze" after "excessive moisture,".

AUTHORIZATION NOT TO INCREASE THE DEFICIT

SEC. 8. Each appropriation made pursuant to authorizations in this Act and any new appropriation for an expenditure of funds by the Department of Agriculture (whether in a general, supplemental, or continuing appropriation Act) shall be made in accordance with the provisions of the Congressional Budget and Impoundment Control Act (which prohibits the consideration by Congress of any bill that would cause the deficit of the United States Government to exceed the levels established by the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings)), such that the appropriation does not increase the deficit of the United States Government for fiscal year 1987, and shall be made only if the expenditure is authorized by law.

2 USC 621 note.

2 USC 901 note.

101 STAT. 323

GREAT LAKES FLOOD EMERGENCY ASSISTANCE

SEC. 9. Section 5 of the Act of August 18, 1941 (33 U.S.C. 701n) is amended—

(1) by redesignating subsection (a) as subsection (a)(1); and

(2) by adding at the end of subsection (a)(1), as redesignated by this Act, the following new paragraph:

"(2) In preparing a cost and benefit feasibility assessment for any emergency project described in paragraph (1), the Chief of Engineers shall consider the benefits to be gained by such project for the protection of—

"(A) residential establishments;

"(B) commercial establishments, including the protection of inventory; and

"(C) agricultural establishments, including the protection of crops.".

CONSERVATION RESERVE

16 USC 3835.

SEC. 10. Section 1235(a) of the Food Security Act of 1985 should be reviewed by the Secretary of Agriculture to ensure that the provisions thereof relating to exceptions to the three-year ownership requirement with respect to eligibility for the conservation reserve are being implemented in a manner to encourage inclusion of producer-owned land in the conservation reserve. However, any such exception to the three-year requirement should be made only if the Secretary determines that the land involved (1) was not acquired for the purpose of placing the land in the conservation reserve or (2) otherwise meets the criteria for exceptions made under section 1235(a).

UPLAND COTTON DISASTER PAYMENTS

SEC. 11. Section 633(B) of the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in section 101(a) of Public Laws 99-500 and 99-591, is amended by— 100 Stat. 1783-30, 3341-30.

(1) adding at the end of subsection (a)(5)(A)(ii) a new sentence as follows: "To ensure equitable treatment of all producers suffering losses, each county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, in accordance with regulations established by the Secretary, shall make adjustments in the actual production on each farm of the 1986 upland cotton crop to reflect any reduction in the quality of such crop caused by drought, excessive heat, floods, hail, or excessive moisture in 1986."; and 100 Stat. 1783, 3341. 16 USC 590h.

(2) adding at the end of subsection (e), as amended by section 7 of this Act, the following:

"(6) With respect to payments based on adjustments made to reflect any reduction in the quality of the 1986 upland cotton crop under subsection (a)—

"(A) payments may be made to producers only to the extent payments under this section are provided for in advance in an appropriation Act, as authorized under section 6 of the Farm Disaster Assistance Act of 1987; and

"(B) the total amount of payments made to all producers may not exceed $15,000,000.".

101 STAT. 324

DESIGNATION OF CERTAIN LANDS AS WETLANDS UNDER WATER BANK ACT

SEC. 12. The Secretary of Agriculture shall designate as "wetlands", for purposes of section 3 of the Water Bank Act (16 U.S.C. 1302), areas in the Kingsbury, Hamlin, Lake, Miner, Brookings, and Codington Counties of the State of South Dakota that suffered from floods in 1986: *Provided,* That, notwithstanding the designation of such lands as wetlands, total payments to owners and operators under the Water Bank Program for lands in the State of South Dakota shall not exceed $1,243,000 during fiscal year 1987. South Dakota.

ETHANOL COST-EFFECTIVENESS STUDY

SEC. 13. (a) The Secretary of Agriculture shall, within 30 days after the date of enactment of this Act, establish a panel to conduct a study of the cost-effectiveness of ethanol production. Effective date.

(b) The panel shall consist of 7 members appointed by the Secretary, of which—

(1) 4 members shall be persons who are representatives of—

(A) feed grain producers;

(B) feed grain processors;

(C) members of associations involved in the production and marketing of ethanol; and

(D) other related industries or institutions of higher education, and both; and

(2) no more than 2 of the remaining 3 members shall be employees of the Federal Government.

(c) The panel shall—

(1) review and assess the economics and cost of production factors involved in the manufacture of ethanol in modern ethanol production facilities;

(2) assess ethanol technology, production, and marketing advances that have enabled the ethanol industry to grow rapidly since the inception of the industry in 1980;

(3) assess the economic effect on United States agriculture from fuel ethanol production from United States agricultural commodities;

(4) review and analyze the tradeoffs between Federal production and marketing incentives for fuel ethanol and other agri-

cultural programs designed to enhance farm income and adjust agricultural production;

(5) analyze the effect on the agricultural economy resulting from increasing levels of ethanol production, including increased employment, increased tax receipts, expanded economic activity, export potential of residual products, and net costs or savings;

(6) analyze the effect fuel ethanol production has on agricultural prices and farm income; and

(7) analyze the effect of increased ethanol production on the balance of trade, energy security, and air quality in the United States.

Effective date.
Reports.

(d) Not later than 90 days after the date of enactment of this Act, the panel shall submit a report describing the results of the study to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate,

101 STAT. 325

and the Secretary of Agriculture.

MARKETING LOAN REPORT

Effective date.

SEC. 14. If marketing loan programs are not established for the 1987 crops of wheat, feed grains, and soybeans under sections 107D(a)(5), 105C(a)(4), and 201(i)(3) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(a)(5), 1444e(a)(4), and 1446(i)(3)) before the date of enactment of this Act, the Secretary of Agriculture, no later than July 1, 1987, shall submit to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that contains—

(1) a statement of the reasons for not establishing marketing loan programs for the 1987 crops of wheat, feed grains, and soybeans;

(2) a comparison of—

(A) the cost of the price support and production control programs for the 1987 crops of wheat, feed grains, and soybeans; and

(B) the cost of such programs if such marketing loan programs were established;

(3) an analysis of the effectiveness of the existing marketing loan programs for cotton and rice;

(4) a comparison of—

(A) the effectiveness of the current marketing loan programs for cotton and rice; and

(B) the effectiveness of marketing loan programs that could be established by the Secretary for wheat, feed grains, and soybeans;

(5) an analysis of whether the generic certificate program established by the Secretary produces the same effect on the price of exported grain as would be achieved by establishing marketing loan programs; and

(6) an analysis of the effect a soybean marketing loan program would have on the markets for sunflower and other oil seeds, situations in which a sunflower marketing loan program would be appropriate, and how such program would operate in conjunction with marketing loan programs for other commodities.

SUNFLOWER PRICE SUPPORT PROGRAM

SEC. 15. (a) Effective for the 1987 through 1990 crops of sunflowers, section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) is amended by—

(1) in the first sentence, inserting "sunflower seeds," after "soybeans,"; and

(2) adding at the end thereof the following new subsection:

Loans.

"(l)(1) The Secretary may support the price of sunflower seeds through loans and purchases for each of the 1987 through 1990 crops

of sunflowers at such level as the Secretary determines will take into account the historical price relationship between sunflower seeds and soybeans, the prevailing loan level for soybeans, and the historical oil content of sunflower seeds and soybeans, except that the level of loans and purchases may not be less than 8½ cents per pound of sunflower seeds.

"(2)(A) The Secretary may permit a producer to repay a loan made under paragraph (1) for a crop at a level that is the lesser of— 101 STAT. 326

"(i) the loan level determined for such crop; or

"(ii) the prevailing world market price for sunflower seeds, as determined by the Secretary.

"(B) If the Secretary permits a producer to repay a loan in accordance with subparagraph (A), the Secretary shall prescribe by regulation—

"(i) a formula to define the prevailing world market price for sunflower seeds; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for sunflower seeds.

"(3)(A) The Secretary may, for each of the 1987 through 1990 crops of sunflowers, make payments available to producers who, although eligible to obtain a loan or purchase agreement under paragraph (1), agree to forgo obtaining such loan or agreement in return for such payments.

"(B) A payment under this paragraph shall be computed by multiplying—

"(i) the loan payment rate; by

"(ii) the quantity of sunflower seeds the producer is eligible to place under loan.

"(C) For purposes of this paragraph, the loan payment rate shall not be less than the amount by which the loan level determined for such crop under paragraph (1) exceeds the level at which a loan may be repaid under this subsection.

"(D) At the option of the Secretary, payments to a producer under this paragraph shall be made in the form of cash or negotiable certificates redeemable for any agricultural commodity owned by the Commodity Credit Corporation, or any combination thereof.

"(4) For purposes of this subsection, the marketing year for sunflower seeds shall be prescribed by the Secretary by regulation. Regulations.

"(5)(A) If price support is to be provided under this subsection for a crop of sunflowers, the Secretary shall make a preliminary announcement of the level of price support for sunflower seeds for the marketing year for such crop not earlier than 30 days before the beginning of the marketing year. The announced level shall be based on the latest information and statistics available at the time of the announcement.

"(B) The Secretary shall make a final announcement of such level as soon as complete information and statistics are available on prices for the 5 years preceding the beginning of the marketing year. Such final level of support may not be announced later than 30 days after the beginning of the marketing year with respect to which the announcement is made. The final level of support may not be less than the level of support provided for in the preliminary announcement.

"(6) Notwithstanding any other provision of law, the Secretary shall not require participation in any production adjustment program for sunflowers or any other commodity as a condition of eligibility for price support for sunflower seeds.".

(b) It is the sense of Congress that, if producers are permitted to repay loans for a crop of soybeans under section 201(i) of the Agricultural Act of 1949 at a level that is less than the full amount of the loan, the Secretary should— 7 USC 1446. 101 STAT. 327

(1) make loans and purchases available for such crop of sunflowers in accordance with section 201(l)(1) of the Agricultural Act of 1949; and *Ante*, p. 325.

(2) permit producers to repay such loans in accordance with section 201(l)(2) of such Act.

Approved May 27, 1987.

LEGISLATIVE HISTORY—H.R. 1157:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 17, considered and passed House.
Apr. 21-23, considered and passed Senate, amended.
May 5, House disagreed to Senate amendments.
May 7, Senate insisted on its amendments.
May 12, Senate agreed to conference report.
May 13, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
May 27, Presidential statement.

101 STAT. 717 Public Law 100-100
100th Congress

An Act

Aug. 18, 1987
[S. 1597]

To amend the Farm Disaster Assistance Act of 1987 to extend the reporting date for the ethanol cost effectiveness study.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ETHANOL COST-EFFECTIVENESS STUDY.

(a) IN GENERAL.—Section 13(d) of the Farm Disaster Assistance Act of 1987 (Public Law 100-45; 101 Stat. 324) is amended by striking out "90 days" and inserting in lieu thereof "180 days".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on May 27, 1987.

Approved August 18, 1987.

LEGISLATIVE HISTORY—S. 1597:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Aug. 5, considered and passed Senate.
Aug. 7, considered and passed House.

101 STAT. 728 Public Law 100-108
100th Congress

An Act

Aug. 20, 1987
[H.R. 2971]

To provide continuing authority to the Secretary of Agriculture for recovering costs associated with cotton classing services, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Uniform Cotton Classing Fees Act of 1987.
Agriculture and agricultural commodities.
7 USC 471 note.

SECTION 1. SHORT TITLE.

That this Act may be cited as the "Uniform Cotton Classing Fees Act of 1987".

SEC. 2. COTTON CLASSIFICATION SERVICES AND FEES.

Effective date.

Effective for the period beginning on the date of enactment of this Act and ending September 30, 1992, section 3a of the Cotton Statistics and Estimates Act (7 U.S.C. 473a) is amended—

(1) by amending the first sentence to read as follows: "Effective for the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, September 30, 1990, September 30, 1991, and September 30, 1992, the Secretary of Agriculture shall make cotton classification services available to producers of cotton and shall provide for the collection of classification fees from participating producers, or agents who voluntarily agree to collect and remit the fees on behalf of producers.";

(2) in the second sentence by striking out the proviso and inserting in lieu thereof the following: "*Provided*, That (1) the uniform per bale classification fee to be collected from producers, or their agents, for such classification service in any year shall be the uniform fee collected in the previous year, exclusive of adjustments to such fee made in the previous year under clauses (2), (3), and (4) of this proviso, and as may be adjusted by the percentage change in the Implicit Price Deflator for Gross National Product as indexed during the most recent twelve-month period for which statistics are available; (2) the fee calculated in accordance with clause (1) for a crop year may be increased by an amount not to exceed 1 per centum for every 100,000 running bales, or portion thereof, that the Secretary estimates will be produced in such crop year below the level of 12,500,000 running bales, or decreased by an amount not to exceed 1 per centum for every 100,000 running bales, or portion thereof, that the Secretary estimates will be produced in such crop year above the level of 12,500,000 running bales; (3) adjustments made under clause (2) shall not exceed 15 per centum, except when the Secretary estimates that income generated by fees, surcharges, and other sources of income will not provide an ending accumulated operating reserve for a fiscal year of at least 10 per centum of the estimated cost of operating the program; (4) if the Secretary projects an accumulated operating reserve at the end of a fiscal year of less than 25 per centum of the estimated cost of operating the program, the Secretary may 101 STAT. 729 add a special surcharge, not to exceed 5 cents per bale, applicable to such fiscal year, to ensure sufficient funds are available; (5) notwithstanding the previous clauses, the Secretary, to the extent practicable, shall not establish a fee which, when combined with all other sources of revenue and adjusted for expenses, would result in a projected operating reserve of more than 25 per centum; (6) the Secretary should continue to recognize that central billing and collection can reduce administrative costs, and offer appropriate discounts where practicable; and (7) the Secretary shall announce the uniform classification fee and any surcharge for the crop not later than June 1 of the year in which the fee applies, except that for fiscal year 1987, such announcement shall be made as soon as practicable following enactment of this proviso."; and

(3) in the third sentence by striking out "clauses (1) and (2)" and inserting in lieu thereof the following: "clauses (1), (2), and (3)".

SEC. 3. STUDY ON PROCESSING CERTAIN COTTON GRADES. 7 USC 473a note.

(a) STUDY.—The Secretary of Agriculture shall conduct a study, and perform such testing as necessary, of the differences between processing efficiency and product quality for Light Spotted and White grade cottons. The Secretary shall also conduct a survey and research to determine why an increasing proportion of the cotton crop is being classified as Light Spotted.

(b) REPORT.—Not later than October 1, 1988, the Secretary shall submit an initial report describing the results of the studies required under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutri-

tion, and Forestry of the Senate. A final report shall be submitted to such committees as soon as practicable after submission of the initial report.

Approved August 20, 1987.

LEGISLATIVE HISTORY—H.R. 2971:

HOUSE REPORTS: No. 100-242 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 133 (1987):
July 27, considered and passed House.
Aug. 5, considered and passed Senate.

Public Law 100–173
100th Congress

An Act

Nov. 23, 1987
[H.R. 3457]

To amend the Packers and Stockyards Act, 1921, to provide financial protection to poultry growers and sellers, and to clarify Federal jurisdiction under such Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Poultry Producers Financial Protection Act of 1987.
7 USC 181 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Poultry Producers Financial Protection Act of 1987".

SEC. 2. DEFINITIONS.

Section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182), is amended—

(1) in paragraph (5) by striking "and" at the end;

(2) by redesignating paragraph (6) as paragraph (11); and

(3) by inserting after paragraph (5) the following:

"(6) The term 'poultry' means chickens, turkeys, ducks, geese, and other domestic fowl;

"(7) The term 'poultry product' means any product or byproduct of the business of slaughtering poultry and processing poultry after slaughter;

"(8) The term 'poultry grower' means any person engaged in the business of raising and caring for live poultry for slaughter by another, whether the poultry is owned by such person or by another, but not an employee of the owner of such poultry;

"(9) The term 'poultry growing arrangement' means any growout contract, marketing agreement, or other arrangement under which a poultry grower raises and cares for live poultry for delivery, in accord with another's instructions, for slaughter;

"(10) The term 'live poultry dealer' means any person engaged in the business of obtaining live poultry by purchase or under a poultry growing arrangement for the purpose of either slaughtering it or selling it for slaughter by another, if poultry is obtained by such person in commerce, or if poultry obtained by such person is sold or shipped in commerce, or if poultry products from poultry obtained by such person are sold or shipped in commerce; and".

SEC. 3. UNLAWFUL PRACTICES.

Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended—

(1) by striking "It shall be unlawful with respect to livestock, meats, meat food products, livestock products in unmanufactured form, poultry or poultry products for any packer or any

live poultry dealer or handler to:" and inserting "It shall be unlawful for any packer with respect to livestock, meats, meat food products, or livestock products in unmanufactured form, or for any live poultry dealer with respect to live poultry, to:"; and

(2) in subdivision (c) by striking "Sell or otherwise transfer to or for any other packer or any live poultry dealer or handler, or buy or otherwise receive from or for any other packer or any live poultry dealer or handler, any article for the purpose or with the effect of apportioning the supply between any such packers," and inserting "Sell or otherwise transfer to or for any other packer or any live poultry dealer, or buy or otherwise receive from or for any other packer or any live poultry dealer, any article for the purpose or with the effect of apportioning the supply between any such persons,". 101 STAT. 918

SEC. 4. STATUTORY TRUST ESTABLISHED.

The Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.), is amended by inserting after section 206 the following:

"SEC. 207. (a) It is hereby found that a burden on and obstruction to commerce in poultry is caused by financing arrangements under which live poultry dealers encumber, give lenders security interest in, or place liens on, poultry obtained by such persons by purchase in cash sales or by poultry growing arrangements, or on inventories of or receivables or proceeds from such poultry or poultry products therefrom, when payment is not made for the poultry and that such financing arrangements are contrary to the public interest. This section is intended to remedy such burden on and obstruction to commerce in poultry and protect the public interest. 7 USC 197.

"(b) All poultry obtained by a live poultry dealer, by purchase in cash sales or by poultry growing arrangement, and all inventories of, or receivables or proceeds from such poultry or poultry products derived therefrom, shall be held by such live poultry dealer in trust for the benefit of all unpaid cash sellers or poultry growers of such poultry, until full payment has been received by such unpaid cash sellers or poultry growers, unless such live poultry dealer does not have average annual sales of live poultry, or average annual value of live poultry obtained by purchase or by poultry growing arrangement, in excess of $100,000.

"(c) Payment shall not be considered to have been made if the cash seller or poultry grower receives a payment instrument which is dishonored.

"(d) The unpaid cash seller or poultry grower shall lose the benefit of such trust if, in the event that a payment instrument has not been received, within 30 days of the final date for making payment under section 410, or within 15 business days after the seller or poultry grower has received notice that the payment instrument promptly presented for payment has been dishonored, the seller or poultry grower has not preserved his trust under this section. The trust shall be preserved by giving written notice to the live poultry dealer and by filing such notice with the Secretary.

"(e) For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.".

SEC. 5. LIABILITY AND ENFORCEMENT.

Section 308(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 209(a)), is amended by inserting "the purchase or sale of poultry, or relating to any poultry growing arrangement," after "livestock,".

SEC. 6. RECORDS AND RESPONSIBILITY.

Sections 401 and 403 of the Packers and Stockyards Act, 1921 (7 U.S.C. 221, 223), are each amended by striking, "or any live poultry dealer or handler," each place it appears and inserting ", any live poultry dealer,".

101 STAT. 919

SEC. 7. POWERS OF FEDERAL TRADE COMMISSION AND SECRETARY OF AGRICULTURE.

Section 406 of the Packers and Stockyards Act, 1921 (7 U.S.C. 227), is amended—

(1) in subsection (b)—

(A) in the first sentence of paragraph (2)—

(i) by striking "or poultry products"; and

(ii) by inserting "or" before "livestock products in unmanufactured form."; and

(B) by amending paragraph (3) to read as follows:

Margarine.
Meat.

"(3) Over all transactions in commerce in margarine, oleomargarine, or poultry products and over retail sales of meat, meat food products and livestock products in unmanufactured form.";

(2) by amending subsection (d) to read as follows:

"(d) The Secretary of Agriculture shall exercise power or jurisdiction over oleomargarine or retail sales of meat, meat food products, or livestock products in unmanufactured form only when he determines, in any investigation of, or any proceeding for the prevention of, an alleged violation of this Act, that such action is necessary to avoid impairment of his power or jurisdiction over acts or transactions involving livestock, meat, meat food products, livestock products in unmanufactured form, or poultry other than retail sales thereof. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Secretary shall notify the Federal Trade Commission of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with respect to acts or transactions involving oleomargarine or retail sales of meat, meat food products, or livestock products in unmanufactured form if the Commission within 10 days from the date of receipt of such notice notifies the Secretary that there is pending in the Commission an investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission involving the same subject matter.";

(3) by redesignating subsection (e) as subsection (f);

(4) by inserting after subsection (d) the following:

"(e) The Secretary of Agriculture shall exercise jurisdiction over poultry products only in a proceeding brought under section 207 or section 410 when such action is necessary to avoid impairment of his jurisdiction."; and

(5) in subsection (f), as so redesignated, by striking "and (d)" and inserting ", (d), and (e)".

SEC. 8. AUTHORITY OF SECRETARY TO REQUEST INJUNCTIVE RELIEF.

Section 408 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228a), is amended by inserting after "unmanufactured form," the following: "or live poultry, or has failed to pay any poultry grower what is due on account of poultry obtained under a poultry growing arrangement,".

SEC. 9. PROMPT PAYMENT FOR PURCHASE OF POULTRY.

The Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.), is amended—

7 USC 228c, 229.

(1) by redesignating sections 410 and 411 as sections 414 and 415, respectively; and

101 STAT. 920

(2) by inserting after section 409 the following:

7 USC 228b-1.

"SEC. 410. (a) Each live poultry dealer obtaining live poultry by purchase in a cash sale shall, before the close of the next business day following the purchase of poultry, and each live poultry dealer obtaining live poultry under a poultry growing arrangement shall, before the close of the fifteenth day following the week in which the poultry is slaughtered, deliver, to the cash seller or poultry grower from whom such live poultry dealer obtains the poultry, the full amount due to such cash seller or poultry grower on account of such poultry.

"(b) Any delay or attempt to delay, by a live poultry dealer which is a party to any such transaction, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for poultry obtained by poultry growing arrangement or purchased in a cash sale, shall be considered an 'unfair practice' in violation of this Act. Nothing in this section shall be deemed to limit the meaning of the term 'unfair practice' as used in this Act.

"(c) For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.

"SEC. 411. (a) Whenever the Secretary has reason to believe that any live poultry dealer has violated or is violating any provision of section 207 or section 410 of this Act, he shall cause a complaint in writing to be served upon the live poultry dealer, stating his charges in that respect, and requiring the live poultry dealer to attend and testify at a hearing at a time and place designated therein, at least 30 days after the service of such complaint; and at such time and place there shall be afforded the live poultry dealer a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such regulations as the Secretary may prescribe. Any person for good cause shown may, on application, be allowed by the Secretary to intervene in such proceeding, and appear in person or by counsel. At any time prior to the close of the hearing, the Secretary may amend the complaint; but in case of any amendment adding new charges, the hearing shall, on the request of the live poultry dealer, be adjourned for a period not exceeding 15 days. 7 USC 228b-2.

"(b) If, after such hearing, the Secretary finds that the live poultry dealer has violated, or is violating, any provisions of section 207 or section 410 of this Act covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the live poultry dealer an order requiring such live poultry dealer to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture. The Secretary may also assess a civil penalty of not more than $20,000 for each such violation. In determining the amount of the civil penalty to be assessed under this section, the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business: *Provided, however,* That in no event can the penalty assessed by the Secretary take priority over or impede the ability of the live poultry dealer to pay any unpaid cash seller or poultry grower. If, after the lapse of the period allowed for appeal or after the affirmance of such penalty, the person against whom the civil penalty is assessed fails to pay such penalty, the Secretary may refer the matter to the Attorney General, who may recover such penalty by an action in the appropriate District Court of the United States. Reports.

101 STAT. 921

"(c) Until the record in such hearing has been filed in a court of appeals of the United States, as provided in section 412, the Secretary, at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the live poultry dealer to be heard, may amend or set aside the report or order, in whole or in part.

"(d) Complaints, orders, and other processes of the Secretary under this section may be served in the same manner as provided in section 5 of the Act entitled 'An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes', approved September 26, 1914.

"SEC. 412. (a) An order made under section 411 shall be final and conclusive unless within 30 days after service the live poultry dealer appeals to the court of appeals for the circuit in which he has his principal place of business, by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or 7 USC 228b-3.

modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such live poultry dealer will pay the costs of the proceedings if the court so directs.

"(b) The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28, United States Code. If before such record is filed the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

"(c) At any time after such petition is filed, the court, on application of the Secretary, may issue a temporary injunction, restraining, to the extent it deems proper, the live poultry dealer and his officers, directors, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal.

"(d) The evidence so taken or admitted, and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.

"(e) The court may affirm, modify, or set aside the order of the Secretary.

"(f) If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of his order, with the return of such additional evidence.

"(g) If the court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the live poultry dealer, and his officers, directors, agents, and employees from violating the provisions of such order or such order as
101 STAT. 922 modified.

"(h) The court of appeals shall have jurisdiction which upon the filing of the record with it shall be exclusive, to review, and to affirm, set aside, or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 1254 of title 28, United States Code, if such writ is duly applied for within 60 days after entry of the decree. The issue of such writ shall not operate as a stay of the decree of the court of appeals, insofar as such decree operates as an injunction, unless so ordered by the Supreme Court.

7 USC 228b-4 "SEC. 413. Any live poultry dealer, or any officer, director, agent, or employee of a live poultry dealer, who fails to obey any order of the Secretary issued under the provisions of section 411, or such order as modified—

"(1) after the expiration of the time allowed for filing a petition in the court of appeals to set aside or modify such order, if no such petition has been filed within such time;

"(2) after the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the court of appeals and no such writ has been applied for within such time; or

"(3) after such order, or such order as modified, has been sustained by the courts as provided in section 412;

shall on conviction be fined not less than $1,000 nor more than $20,000. Each day during which such failure continues shall be deemed a separate offense.".

SEC. 10. REPEALER.

Title V of the Packers and Stockyards Act, 1921 (7 U.S.C. 218-218d), is repealed.

SEC. 11. CONSTRUCTION.

(a) GENERAL RULE.—The amendments made by this Act to the Packers and Stockyards Act, 1921, shall not be construed to limit or otherwise affect the power or jurisdiction of the Federal Trade Commission under the Federal Trade Commission Act to prevent the use of— 7 USC 227 note.

(1) unfair methods of competition in or affecting commerce, and

(2) unfair and deceptive acts or practices in or affecting commerce,

involving poultry products. 101 STAT. 923

(b) SECRETARY'S AUTHORITY.—Subsection (a) shall not be construed to limit or otherwise affect the authority of the Secretary of Agriculture under section 406(e), as amended, of the Packers and Stockyards Act, 1921.

SEC. 12. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 90 days after the date of the enactment of this Act. 7 USC 182 note.

Approved November 23, 1987.

LEGISLATIVE HISTORY—H.R. 3457:

HOUSE REPORTS: No. 100-397 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 27, considered and passed House.
Nov. 3, considered and passed Senate.

Public Law 100-233 101 STAT. 1568
100th Congress

An Act

To provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes. Jan. 6, 1988 [H.R. 3030]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS. Agricultural Credit Act of 1987. Banks and banking. Rural areas. Securities. 12 USC 2001 note.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Credit Act of 1987".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

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SEC. 2. REFERENCES TO THE FARM CREDIT ACT OF 1971.

Except as otherwise specifically provided, whenever in this Act (other than in title VI) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

TITLE I—ASSISTANCE TO FARM CREDIT SYSTEM BORROWERS

SEC. 101. PROTECTION OF BORROWER STOCK.

Part A of title IV (12 U.S.C. 2151 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 4.9A. PROTECTION OF BORROWER STOCK. 12 USC 2162

"(a) RETIREMENT OF STOCK.—Notwithstanding any other section of this Act, each institution of the Farm Credit System, when retiring eligible borrower stock in accordance with this Act, shall retire such stock at par value. Any such institution whose capital stock is impaired (as determined in accordance with generally accepted accounting principles) shall coordinate such retirement of stock under this section with the activities of the Assistance Board and the Financial Assistance Corporation.

"(b) CERTAIN POWERS NOT AFFECTED.—This section does not affect the authority of any institution of the Farm Credit System—

"(1) to retire or cancel borrower stock at par value for application against a loan in default;

101 STAT. 1573

"(2) to cancel borrower stock at par value under section 4.14B; or

"(3) to apply, against any outstanding indebtedness to a System association arising out of or in connection with a liquidation referred to in subsection (d)(2), the par value of borrower stock frozen in such liquidation.

"(c) INABILITY TO RETIRE AT PAR VALUE.—If an institution is unable to retire eligible borrower stock at par value due to the freezing of such stock during a liquidation of the institution, the receiver of the institution shall retire such stock at par value as would have been retired in the ordinary course of business of the institution and the Financial Assistance Corporation, on request of the Assistance Board, shall provide the receiver with sufficient funds to enable the receiver to carry out this subsection.

"(d) DEFINITIONS.—For purposes of this section:

"(1) BORROWER STOCK.—The term 'borrower stock' means voting and nonvoting stock, equivalent contributions to a guar-

anty fund, participation certificates, allocated equities, and other similar equities that are subject to retirement under a revolving cycle issued by any System institution and held by any person other than any System institution.

"(2) ELIGIBLE BORROWER STOCK.—The term 'eligible borrower stock' means borrower stock that—

"(A) is outstanding on the date of the enactment of this section;

"(B) is required to be purchased, and is purchased, as a condition of obtaining a loan made after the date of the enactment of this section, but prior to the earlier of—

"(i) in the case of each bank and association, the date of approval, by the stockholders of such bank or association, of the capitalization requirements of the institution in accordance with section 4.9B; or

"(ii) the date that is 9 months after the date of the enactment of this section;

"(C) was, after January 1, 1983, but before the date of the enactment of this section, frozen by an institution that was placed in liquidation; or

"(D) was retired at less than par value by an institution that was placed in liquidation after January 1, 1983, but before the date of the enactment of this section.

"(3) INSTITUTION.—The term 'institution' means a bank or association chartered under this Act.

"(4) PAR VALUE.—The term 'par value' means—

"(A) in the case of stock, par value;

"(B) in the case of participation certificates and other equities and interests not described in subparagraph (C), face or equivalent value; or

"(C) in the case of participation certificates and allocated equities subject to retirement under a revolving cycle but that a System institution elects to retire out of order for application against a loan in default or otherwise as provided in this Act, par or face value discounted, at a rate determined by the institution, to reflect the present value of the equity or interest as of the date of such retirement.".

101 STAT. 1574

SEC. 102. RESTRUCTURING DISTRESSED LOANS.

(a) IN GENERAL.—Part C of title IV is amended by inserting after section 4.14 (12 U.S.C. 2202) the following new sections:

12 USC 2202a.

"SEC. 4.14A. RESTRUCTURING DISTRESSED LOANS.

"(a) DEFINITIONS.—As used in this part (other than in sections 4.17 and 4.18):

"(1) APPLICATION FOR RESTRUCTURING.—The term 'application for restructuring' means a written request—

"(A) from a borrower for the restructuring of a distressed loan in accordance with a preliminary restructuring plan proposed by the borrower as a part of the application;

"(B) submitted on the appropriate forms prescribed by the qualified lender; and

"(C) accompanied by sufficient financial information and repayment projections, where appropriate, as required by the qualified lender to support a sound credit decision.

"(2) COST OF FORECLOSURE.—The term 'cost of foreclosure' includes—

"(A) the difference between the outstanding balance due on a loan made by a qualified lender and the liquidation value of the loan, taking into consideration the borrower's repayment capacity and the liquidation value of the collateral used to secure the loan;

"(B) the estimated cost of maintaining a loan as a nonperforming asset;

"(C) the estimated cost of administrative and legal actions necessary to foreclose a loan and dispose of property acquired as the result of the foreclosure, including attorneys' fees and court costs;

"(D) the estimated cost of changes in the value of collateral used to secure a loan during the period beginning on the date of the initiation of an action to foreclose or liquidate the loan and ending on the date of the disposition of the collateral; and

"(E) all other costs incurred as the result of the foreclosure or liquidation of a loan.

"(3) DISTRESSED LOAN.—The term 'distressed loan' means a loan that the borrower does not have the financial capacity to pay according to its terms and that exhibits one or more of the following characteristics:

"(A) The borrower is demonstrating adverse financial and repayment trends.

"(B) The loan is delinquent or past due under the terms of the loan contract.

"(C) One or both of the factors listed in subparagraphs (A) and (B), together with inadequate collateralization, present a high probability of loss to the lender.

"(4) FORECLOSURE PROCEEDING.—The term 'foreclosure proceeding' means—

"(A) a foreclosure or similar legal proceeding to enforce a lien on property, whether real or personal, that secures a nonaccrual or distressed loan; or

"(B) the seizing of and realizing on nonreal property collateral, other than collateral subject to a statutory lien arising under title I or II, to effect collection of a nonaccrual or distressed loan.

101 STAT. 1575

"(5) LOAN.—The term 'loan' means a loan made to a farmer, rancher, or producer or harvester of aquatic products, for any agricultural or aquatic purpose and other credit needs of the borrower, including financing for basic processing and marketing directly related to the borrower's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products.

"(6) QUALIFIED LENDER.—The term 'qualified lender' means—

"(A) a System institution that makes loans (as defined in paragraph (5)) except a bank for cooperatives; and

"(B) each bank, institution, corporation, company, union, and association described in section 2.3(a)(2) but only with respect to loans discounted or pledged under section 2.3(a).

"(7) RESTRUCTURE AND RESTRUCTURING.—The terms 'restructure' and 'restructuring' include rescheduling, reamortization, renewal, deferral of principal or interest, monetary concessions, and the taking of any other action to modify the terms of, or forbear on, a loan in any way that will make it probable that the operations of the borrower will become financially viable.

"(b) NOTICE.—

"(1) IN GENERAL.—On a determination by a qualified lender that a loan made by the lender is or has become a distressed loan, the lender shall provide written notice to the borrower that the loan may be suitable for restructuring, and include with such notice—

"(A) a copy of the policy of the lender established under subsection (g) that governs the treatment of distressed loans; and

"(B) all materials necessary to enable the borrower to submit an application for restructuring on the loan.

"(2) NOTICE BEFORE FORECLOSURE.—Not later than 45 days before any qualified lender begins foreclosure proceedings with respect to a loan outstanding to any borrower, the lender shall notify the borrower that the loan may be suitable for restructuring and that the lender will review any such suitable loan for

restructuring, and shall include with such notice a copy of the policy and the materials described in paragraph (1).

"(3) LIMITATION ON FORECLOSURE.—No qualified lender may foreclose or continue any foreclosure proceeding with respect to any distressed loan before the lender has completed any pending consideration of the loan for restructuring under this section.

"(c) MEETINGS.—On determination by a qualified lender that a loan made by the lender is or has become a distressed loan, the lender shall provide a reasonable opportunity for the borrower thereof to personally meet with a representative of the lender—

"(1) to review the status of the loan, the financial condition of the borrower, and the suitability of the loan for restructuring; and

"(2) with respect to a loan that is in nonaccrual status, to develop a plan for restructuring the loan if the loan is suitable for restructuring.

"(d) CONSIDERATION OF APPLICATIONS.—

"(1) IN GENERAL.—When a qualified lender receives an application for restructuring from a borrower, the qualified lender shall determine whether or not to restructure the loan, taking into consideration— 101 STAT. 1576

"(A) whether the cost to the lender of restructuring the loan is equal to or less than the cost of foreclosure;

"(B) whether the borrower is applying all income over and above necessary and reasonable living and operating expenses to the payment of primary obligations;

"(C) whether the borrower has the financial capacity and the management skills to protect the collateral from diversion, dissipation, or deterioration;

"(D) whether the borrower is capable of working out existing financial difficulties, reestablishing a viable operation, and repaying the loan on a rescheduled basis; and

"(E) in the case of a distressed loan that is not delinquent, whether restructuring consistent with sound lending practices may be taken to reasonably ensure that the loan will not become a loan that it is necessary to place in nonaccrual status.

"(2) APPLICATIONS NOT REQUIRED FOR RESTRUCTURING PLANS.—This section shall not prevent a qualified lender from proposing a restructuring plan for an individual borrower in the absence of an application for restructuring from the borrower.

"(e) RESTRUCTURING.—

"(1) IN GENERAL.—If a qualified lender determines that the potential cost to a qualified lender of restructuring the loan in accordance with a proposed restructuring plan is less than or equal to the potential cost of foreclosure, the qualified lender shall restructure the loan in accordance with the plan.

"(2) COMPUTATION OF COST OF RESTRUCTURING.—In determining whether the potential cost to the qualified lender of restructuring a distressed loan is less than or equal to the potential cost of foreclosure, a qualified lender shall consider all relevant factors, including—

"(A) the present value of interest income and principal forgone by the lender in carrying out the restructuring plan;

"(B) reasonable and necessary administrative expenses involved in working with the borrower to finalize and implement the restructuring plan;

"(C) whether the borrower has presented a preliminary restructuring plan and cash-flow analysis taking into account income from all sources to be applied to the debt and all assets to be pledged, showing a reasonable probability that orderly debt retirement will occur as a result of the proposed restructuring; and

"(D) whether the borrower has furnished or is willing to furnish complete and current financial statements in a form acceptable to the institution.

"(f) LEAST COST ALTERNATIVE.—If two or more restructuring alternatives are available to a qualified lender under this section with respect to a distressed loan, the lender shall restructure the loan in conformity with the alternative that results in the least cost to the lender.

"(g) RESTRUCTURING POLICY.—

"(1) ESTABLISHMENT.—Each farm credit district board of directors shall develop a policy within 60 days after the date of the enactment of this section, that is consistent with this section, to govern the restructuring of distressed loans. Such policy shall constitute the restructuring policy of each qualified lender within the district. 101 STAT. 1577

"(2) CONTENTS OF POLICY.—The policy established under paragraph (1) shall include an explanation of—

"(A) the procedure for submitting an application for restructuring; and

"(B) the right of borrowers with distressed loans to seek review by a credit review committee in accordance with section 4.14 of a denial of an application for restructuring.

"(3) SUBMISSION OF POLICY TO FCA.—Each district board shall submit the policy of the district governing the treatment of distressed loans under this section to the Farm Credit Administration. Notwithstanding the duty imposed by the preceding sentence, the other duties imposed by this section shall take effect on the date of the enactment of this section.

"(h) REPORTS.—During the 5-year period beginning on the date of the enactment of this section, each qualified lender shall submit semiannual reports to the Farm Credit Administration containing—

"(1) the results of the review of distressed loans of the lender; and

"(2) the financial effect of loan restructurings and liquidations on the lender.

"(i) COMPLIANCE.—The Farm Credit Administration may issue a directive requiring compliance with any provision of this section to any qualified lender that fails to comply with such provision.

"(j) PERMITTED FORECLOSURES.—This section shall not be construed to prevent any qualified lender from enforcing any contractual provision that allows the lender to foreclose a loan, or from taking such other lawful action as the lender deems appropriate, if the lender has reasonable grounds to believe that the loan collateral will be destroyed, dissipated, consumed, concealed, or permanently removed from the State in which the collateral is located.

"(k) APPLICATION OF SECTION.—The time limitation prescribed in subsection (b)(2), and the requirements of subsection (c), shall not apply to a loan that became a distressed loan before the date of the enactment of this section if the borrower and lender of the loan are in the process of negotiating loan restructuring with respect to the loan.

"(l) ASSISTANCE IN RESTRUCTURING.—Each Federal intermediate credit bank, on request of any production credit association, may assist the association in restructuring loans under this section.

"SEC. 4.14B. EFFECT OF RESTRUCTURING ON BORROWER STOCK. 12 USC 2202b.

"(a) FEDERAL LAND BANK.—If a Federal land bank forgives and writes off, under section 4.14A, any of the principal outstanding on a loan made to any borrower, the Federal land bank association of which the borrower is a member and stockholder shall cancel the same dollar amount of borrower stock held by the borrower in respect of the loan, up to the total amount of such stock, and the Federal land bank shall retire an equal amount of stock owned by the Federal land bank association.

"(b) PRODUCTION CREDIT ASSOCIATION.—If a production credit association forgives and writes off, under section 4.14A, any of the principal outstanding on a loan made to any borrower, the association shall cancel the same dollar amount of borrower stock held by the borrower in respect of the loan, up to the total amount of such
101 STAT. 1578 stock.

"(c) RETENTION OF STOCK.—Notwithstanding subsections (a) and (b), the borrower shall be entitled to retain at least one share of stock to maintain the borrower's membership and voting interest in the association.

12 USC 2202c. "SEC. 4.14C. REVIEW OF RESTRUCTURING DENIALS.

"(a) REQUIREMENTS FOR RESTRUCTURING BY SYSTEM INSTITUTIONS.—

"(1) EXISTING NONACCRUAL LOANS.—Within 9 months after a qualified lender is certified under section 6.4, such lender shall review each loan that has not been previously restructured and that is in nonaccrual status on the date the lender is certified, and determine whether to restructure the loan.

"(2) NEW NONACCRUAL LOANS.—Within 6 months after a loan made by a certified lender is placed in nonaccrual status, the lender shall determine whether to restructure the loan.

"(b) SPECIAL ASSET GROUPS.—

"(1) ESTABLISHMENT.—Within 30 days after a qualified lender in a district is certified to issue preferred stock under section 6.27, the district board of such district shall establish a special asset group that shall review each determination by the lender not to restructure a loan.

"(2) RESTRUCTURING PLAN.—If a special asset group determines under paragraph (1) that a loan under review should be restructured, the group shall prescribe a restructuring plan for the loan that the qualified lender shall implement.

"(c) NATIONAL SPECIAL ASSET COUNCIL.—

"(1) ESTABLISHMENT.—A National Special Asset Council shall be established by the Assistance Board to—

"(A) monitor compliance with the restructuring requirements of this section by qualified lenders certified to issue preferred stock under section 6.27, and by special asset groups established under subsection (b); and

"(B) review a sample of determinations made by each special asset group that a loan will not be restructured.

"(2) REVIEW OF DETERMINATION.—The National Special Asset Council shall review a sufficient number of determinations made by each special asset group to foreclose on any loan to assure the Council that such group is complying with this section. With regard to each determination reviewed, the Council shall make an independent judgment on the merits of the decision to foreclose rather than restructure the loan.

"(3) NONCOMPLIANCE.—If the National Special Asset Council determines that any special asset group is not in substantial compliance with this section, the Council shall notify the group of the determination, and may take such other action as the Council considers necessary to ensure that such group complies with this section.

"(d) REPORT.—With respect to determinations by a special asset group that a loan will not be restructured, the special asset group shall submit to the National Special Asset Council a report evaluating the loan and the basis for the determination that the loan should not be restructured.

"(e) RESTRUCTURING FACTORS.—In determining whether a loan is to be restructured, the National Special Asset Council, each special
101 STAT. 1579 asset group, and each qualified lender certified under section 6.4 shall take into consideration the factors specified in section 4.14A(d)(1).".

State and local governments. 12 USC 2202a note.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the banks and associations (except banks for cooperatives) operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) should administer distressed loans to farmers with the objective of using the loan guarantee programs of the Farmers Home Administration and other loan restructuring measures, including participation in interest rate buy-down programs that are Federally or State funded, and other Federal and State sponsored financial assistance programs that offer relief to financially distressed farmers, as alternatives to foreclosure, considering the availability and appropriateness of such programs on a case-by-case basis.

SEC. 103. DISCLOSURE BY BANKS AND ASSOCIATIONS.

Section 4.13 (12 U.S.C. 2199) is amended to read as follows:

"SEC. 4.13. DISCLOSURE.

"In accordance with regulations of the Farm Credit Administration, qualified lenders shall provide to borrowers, for all loans that are not subject to the Truth in Lending Act (15 U.S.C. 1601 et seq.), meaningful and timely disclosure not later than the time of the loan closing, of—

"(1) the current rate of interest on the loan;

"(2) in the case of an adjustable or variable rate loan, the amount and frequency by which the interest rate can be increased during the term of the loan or, if there are no such limitations, a statement to that effect, and the factors (including the cost of funds, operating expenses, and provision for loan losses) that will be taken into account by the qualified lender in determining adjustments to the interest rate;

"(3) the effect, as shown by a representative example or examples, of any loan origination charges or purchases of stock or participation certificates on the effective rate of interest;

"(4) any change in the interest rate applicable to the borrower's loan;

"(5) except with respect to stock guaranteed under section 4.9A, a statement indicating that stock that is purchased is at risk; and

"(6) a statement indicating the various types of loan options available to borrowers, with an explanation of the terms and borrowers' rights that apply to each type of loan.".

SEC. 104. ACCESS TO DOCUMENTS AND INFORMATION.

Section 4.13A (12 U.S.C. 2200) is amended—

(1) by striking out "System institutions" and inserting in lieu thereof "qualified lenders"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof: "and copies of each appraisal of the borrower's assets made or used by the qualified lender.".

SEC. 105. NOTICE OF ACTION ON APPLICATION FOR LOANS OR RESTRUCTURING.

Section 4.13B (12 U.S.C. 2201) is amended to read as follows: 101 STAT. 1580

"SEC. 4.13B. NOTICE OF ACTION ON APPLICATION.

"(a) LOAN APPLICATIONS.—Each qualified lender to which a person has applied for a loan shall provide the person with prompt written notice of—

"(1) the action on the application;

"(2) if the loan applied for is reduced or denied, the reasons for such action; and

"(3) the applicant's right to review under section 4.14.

"(b) DISTRESSED LOANS.—Each qualified lender that has a distressed loan outstanding that is subject to restructuring requirements under this Act shall provide, in accordance with regulations

prescribed by the Farm Credit Administration, the borrower with prompt written notice of—

"(1) any action taken with respect to restructuring the loan under section 4.14A;

"(2) if restructuring is denied, the reasons for such action; and

"(3) the borrower's right to review under section 4.14.".

SEC. 106. RECONSIDERATION OF ACTIONS.

Section 4.14 (12 U.S.C. 2202) is amended to read as follows:

"SEC. 4.14. RECONSIDERATION OF ACTIONS.

"(a) CREDIT REVIEW COMMITTEES.—

"(1) IN GENERAL.—The board of directors of each qualified lender shall establish one or more credit review committees, which shall include farmer board representation.

"(2) MEMBERSHIP.—In no case shall a loan officer involved in the initial decision on a loan serve on the credit review committee when the committee reviews such loan.

"(b) REVIEW OF DECISIONS.—

"(1) DENIALS OR REDUCTIONS.—Any applicant for a loan from a qualified lender that has received a written notice issued under section 4.13B of a decision to deny or reduce the loan applied for may submit a written request, not later than 30 days after receiving a notice denying or reducing the amount of the loan application, to obtain a review of the decision by a credit review committee.

"(2) DENIALS OF RESTRUCTURING.—A borrower of a loan from a qualified lender that has received notice, under section 4.13B, of a decision to deny loan restructuring with respect to a loan made to the borrower, if the borrower so requests in writing within 7 days after receiving such notice, may obtain a review of such decision in person before the credit review committee.

"(c) PERSONAL APPEARANCE.—An applicant for a loan or for restructuring, who is entitled to and has requested a review under this section, may appear in person before the credit review committee, and may be accompanied by counsel or by any other representative of such person's choice, to seek a reversal of the decision on the application under review.

"(d) INDEPENDENT APPRAISAL.—

"(1) IN GENERAL.—An appeal filed with a credit review committee under this section may include, as a part of the request for a review of the decision filed under subsection (b)(1), a request for an independent appraisal, by an accredited appraiser, of any interests in property securing the loan (other than the stock or participation certificates of the qualified lender held by the borrower).

101 STAT. 1581

"(2) ARRANGEMENT AND COST.—Within 30 days after a request for an appraisal under paragraph (1), the credit review committee shall present the borrower with a list of three appraisers approved by the appropriate qualified lender from which the borrower shall select an appraiser to conduct the appraisal the cost of which shall be borne by the borrower, and shall consider the results of such appraisal in any final determination with respect to the loan.

"(3) COPY TO BORROWER.—A copy of any appraisal made under this subsection shall be provided to the borrower.

"(4) ADDITIONAL COLLATERAL.—An independent appraisal shall be permitted if additional collateral for a loan is demanded by the qualified lender when determining whether to restructure the loan.

"(e) NOTIFICATION OF APPLICANT.—Promptly after a review by the credit review committee, the committee shall notify the applicant or borrower, as the case may be, in writing of the decision of the committee and the reasons for the decision.".

SEC. 107. PROTECTION OF BORROWERS WHO MEET ALL LOAN OBLIGATIONS.

Part C of title IV is amended by inserting after the sections added by section 102(a) of this Act the following new section:

"SEC. 4.14D. PROTECTION OF BORROWERS WHO MEET ALL LOAN OBLIGATIONS. 12 USC 2202d.

"(a) FORECLOSURE PROHIBITED.—A qualified lender may not foreclose on any loan because of the failure of the borrower thereof to post additional collateral, if the borrower has made all accrued payments of principal, interest, and penalties with respect to the loan.

"(b) PROHIBITION AGAINST REQUIRED PRINCIPAL REDUCTION.—A qualified lender may not require any borrower to reduce the outstanding principal balance of any loan made to the borrower by any amount that exceeds the regularly scheduled principal installment payment (when due and payable), unless—

"(1) the borrower sells or otherwise disposes of part or all of the collateral; or

"(2) the parties agree otherwise in a written agreement entered into by the parties.

"(c) NONENFORCEMENT.—After a borrower has made all accrued payments of principal, interest, and penalties with respect to a loan made by a qualified lender, the lender shall not enforce acceleration of the borrower's repayment schedule due to the borrower having not timely made one or more principal or interest payments.

"(d) PLACING LOANS IN NONACCRUAL STATUS.—

"(1) NOTIFICATION.—If a qualified lender places any loan in nonaccrual status, the lender shall document such change of status and promptly notify the borrower thereof in writing of such action and the reasons therefor.

"(2) REVIEW OF DENIAL.—If the borrower was not delinquent in any principal or interest payment under the loan at the time of such action and the borrower's request to have the loan placed back into accrual status is denied, the borrower may obtain a review of such denial before the appropriate credit review committee under section 4.14.

101 STAT. 1582

"(3) APPLICATION.—This subsection shall only apply if a loan being placed in nonaccrual status results in an adverse action being taken against the borrower.".

SEC. 108. RIGHT OF FIRST REFUSAL.

Section 4.36 (12 U.S.C. 2219a) is amended to read as follows:

"SEC. 4.36. RIGHT OF FIRST REFUSAL.

"(a) GENERAL RULE.—Agricultural real estate that is acquired by an institution of the System as a result of a loan foreclosure or a voluntary conveyance by a borrower (hereinafter in this section referred to as the 'previous owner') who, as determined by the institution, does not have the financial resources to avoid foreclosure (hereinafter in this section referred to as 'acquired real estate') shall be subject to the right of first refusal of the previous owner to repurchase or lease the property, as provided in this section.

"(b) APPLICATION OF RIGHT OF FIRST REFUSAL TO SALE OF PROPERTY.—

"(1) ELECTION TO SELL AND NOTIFICATION.—Within 15 days after an institution of the System first elects to sell acquired real estate, or any portion of such real estate, the institution shall notify the previous owner by certified mail of the owner's right—

"(A) to purchase the property at the appraised fair market value of the property, as established by an accredited appraiser; or

"(B) to offer to purchase the property at a price less than the appraised value.

"(2) ELIGIBILITY TO PURCHASE.—To be eligible to purchase the property under paragraph (1), the previous owner must, within 15 days after receiving the notice required by such paragraph, submit an offer to purchase the property.

"(3) MANDATORY SALE.—An institution of the System receiving an offer from the previous owner to purchase the property at the appraised value shall, within 30 days after the receipt of such offer, accept such offer and sell the property to the previous owner.

"(4) PERMISSIVE SALE.—An institution of the System receiving an offer from the previous owner to purchase the property at a price less than the appraised value may accept such offer and sell the property to the previous owner. Notice shall be provided to the previous owner of the acceptance or rejection of such offer within 15 days after the receipt of such offer.

"(5) REJECTION OF OFFER OF PREVIOUS OWNER.—

"(A) DUTIES OF INSTITUTION.—An institution of the System that rejects an offer from the previous owner to purchase the property at a price less than the appraised value may not sell the property to any other person—

"(i) at a price equal to, or less than, that offered by the previous owner; or

"(ii) on different terms and conditions than those that were extended to the previous owner,

without first affording the previous owner an opportunity to purchase the property at such price or under such terms and conditions.

101 STAT. 1583

"(B) NOTICE.—Notice of the opportunity in subparagraph (A) shall be provided to the previous owner by certified mail, and the previous owner shall have 15 days in which to submit an offer to purchase the property at such price or under such terms and conditions.

"(c) APPLICATION OF RIGHT OF FIRST REFUSAL TO LEASING OF PROPERTY.—

"(1) ELECTION TO LEASE AND NOTIFICATION.—Within 15 days after an institution of the System first elects to lease acquired real estate, or any portion of such real estate, the institution shall notify the previous owner by certified mail of the owner's right—

"(A) to lease the property at a rate equivalent to the appraised rental value of the property, as established by an accredited appraiser; or

"(B) to offer to lease the property at a rate that is less than the appraised rental value of the property.

"(2) ELIGIBILITY TO LEASE.—To be eligible to lease the property under paragraph (1), the previous owner must, within 15 days after receiving the notice required by such paragraph, submit an offer to lease the property.

"(3) MANDATORY LEASE.—An institution of the System receiving an offer from the previous owner to lease the property at a rate equivalent to the appraised rental value of the property shall, within 15 days after the receipt of such offer, accept such offer and lease the property to the previous owner unless the institution determines that the previous owner—

"(A) does not have the resources available to conduct a successful farming or ranching operation; or

"(B) cannot meet all of the payments, terms, and conditions of such lease.

"(4) PERMISSIVE LEASE.—An institution of the System receiving an offer from the previous owner to lease the property at a rate that is less than the appraised rental value of the property may accept such offer and lease the property to the previous owner.

"(5) NOTICE TO PREVIOUS OWNER.—An institution of the System receiving an offer from the previous owner to lease the property at a rate less than the appraised rental value of the property shall notify the previous owner of its acceptance or rejection of the offer within 15 days after the receipt of such offer.

"(6) REJECTION OF OFFER OF PREVIOUS OWNER.—

"(A) DUTIES OF INSTITUTION.—An institution of the System rejecting an offer from the previous owner to lease the property at a rate less than the appraised rental value of the property may not lease the property to any other person—

"(i) at a rate equal to or less than that offered by the previous owner; or

"(ii) on different terms and conditions than those that were extended to the previous owner,

without first affording the previous owner an opportunity to lease the property at such rate or under such terms and conditions.

"(B) NOTICE.—Notice of the opportunity described in subparagraph (A) shall be given to the previous owner by certified mail, and the previous owner shall have 15 days after the receipt of such notice in which to agree to lease the property at such rate or under such terms and conditions. 101 STAT. 1584

"(d) PUBLIC OFFERINGS.—

"(1) NOTIFICATION OF PREVIOUS OWNER.—If an institution of the System elects to sell or lease acquired property or a portion thereof through a public auction, competitive bidding process, or other similar public offering, the institution shall notify the previous owner, by certified mail, of the availability of the property. Such notice shall contain the minimum amount, if any, required to qualify a bid as acceptable to the institution and any terms and conditions to which such sale or lease will be subject.

"(2) PRIORITY.—If two or more qualified bids in the same amount are received by the institution under paragraph (1), such bids are the highest received, and one of the qualified bids is offered by the previous owner, the institution shall accept the offer by the previous owner.

"(3) NONDISCRIMINATION.—No institution of the System may discriminate against a previous owner in any public auction, competitive bidding process, or other similar public offering of property acquired by the institution from such person.

"(e) TERM OR CONDITION.—For the purposes of this section, financing by a System institution shall not be considered to be a term or condition of a sale of acquired real estate.

"(f) FINANCING.—Notwithstanding any other provision of this section, a System institution shall not be required to provide financing to the previous owner in connection with the sale of acquired real estate.

"(g) MAILING OF NOTICE.—Notwithstanding any other provision of this section, each certified mail notice requirement in this section shall be fully satisfied by mailing one certified mail notice to the last known address of the former borrower.

"(h) STATE LAWS.—The rights provided in this section shall not diminish any such right of first refusal under the law of the State in which the property is located.

"(i) APPLICABILITY.—This section shall not apply to a bank for cooperatives.".

SEC. 109. DIFFERENTIAL INTEREST RATES.

Section 4.13 (12 U.S.C. 2201) (as amended by section 103(a) of this Act) is further amended— 12 USC 2199.

(1) by striking out "In" and inserting in lieu thereof "(a) IN GENERAL.—In"; and

(2) by adding at the end thereof the following new subsection:

"(b) DIFFERENTIAL INTEREST RATES.—A qualified lender offering more than one rate of interest to borrowers shall, at the request of a borrower of a loan—

"(1) provide a review of the loan to determine if the proper interest rate has been established;

"(2) explain to the borrower in writing the basis for the interest rate charged; and

"(3) explain to the borrower in writing how the credit status of the borrower may be improved to receive a lower interest rate on the loan.".

101 STAT. 1585

SEC. 110. APPLICATION OF UNINSURED ACCOUNTS.

Part F of title IV (12 U.S.C. 2219 et seq.) is amended by adding at the end thereof the following new section:

12 USC 2219b.

"SEC. 4.37. APPLICATION OF UNINSURED ACCOUNTS.

"(a) IN GENERAL.—Money of a borrower held by a Farm Credit System institution in an uninsured voluntary or involuntary account as authorized under regulations issued by the Farm Credit Administration (as in effect immediately before the date of the enactment of this section), including all such other accounts known as 'advanced payment accounts' or 'future prepayment accounts' shall, in the event the institution is placed in liquidation, be immediately applied as payment against the indebtedness of any outstanding loans of such borrower.

"(b) REGULATIONS.—The Farm Credit Administration shall promulgate regulations—

"(1) that define the term 'uninsured voluntary or involuntary account'; and

"(2) to otherwise effectively carry out this section.".

TITLE II—ASSISTANCE TO FARM CREDIT SYSTEM

SEC. 201. ASSISTANCE TO FARM CREDIT SYSTEM.

The Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VI—ASSISTANCE TO FARM CREDIT SYSTEM

"Subtitle A—Assistance Board

12 USC 2278a.

"SEC. 6.0. ESTABLISHMENT OF BOARD.

"(a) CHARTERS.—On the date which is 15 days after the date of the enactment of this title, the Farm Credit Administration shall revoke the charter of the Farm Credit System Capital Corporation (hereinafter referred to in this title as the 'Capital Corporation') and shall charter the Farm Credit System Assistance Board (hereinafter referred to in this Act as the 'Assistance Board') that, subject to this subtitle, shall be a Federally chartered instrumentality of the United States.

Contracts.

"(b) USE OF CAPITAL CORPORATION STAFF.—During the 90-day period beginning on the date of the revocation of the charter of the Capital Corporation, the Assistance Board may temporarily employ, by contract or otherwise under reasonable and necessary terms and conditions, such staff of the Capital Corporation as is necessary to facilitate and effectuate an orderly transition to, and commencement of, the Assistance Board, and the termination of the affairs of the Capital Corporation.

"SEC. 6.1. PURPOSES. 12 USC 2278a-1.

"The purposes of the Assistance Board shall be to carry out a program to provide assistance to, and protect the stock of borrowers of, the institutions of the Farm Credit System, and to assist in restoring System institutions to economic viability and permitting such institutions to continue to provide credit to farmers, ranchers, and the cooperatives of such, at reasonable and competitive rates. 101 STAT. 1586

"SEC. 6.2. BOARD OF DIRECTORS. 12 USC 2278a-2.

"(a) MEMBERSHIP.—The Board of Directors of the Assistance Board (hereinafter referred to in this subtitle as the 'Board of Directors') shall consist of three members—

"(1) one of which shall be the Secretary of the Treasury;

"(2) one of which shall be the Secretary of Agriculture; and

"(3) one of which shall be an agricultural producer experienced in financial matters, and appointed by the President, by and with the advice and consent of the Senate. President of U.S.

"(b) CHAIRMAN.—The Board of Directors shall elect annually a Chairman from among the members of the Board.

"(c) TERMS OF OFFICE, SUCCESSION, AND VACANCIES.—

"(1) TERMS OF OFFICE AND SUCCESSION.—The term of each member of the Board of Directors shall expire when the Assistance Board is terminated.

"(2) VACANCIES.—Vacancies on the Board of Directors shall be filled in the same manner as the vacant position was previously filled.

"(d) COMPENSATION OF BOARD MEMBERS.—Members of the Board of Directors—

"(1) appointed under paragraphs (1) and (2) of subsection (a) shall receive reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Assistance Board, as set forth in the bylaws issued by the Board of Directors, except that such level shall not exceed the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States; and

"(2) appointed under paragraph (3) of subsection (a) shall receive compensation for the time devoted to meetings and other activities at a daily rate not to exceed the daily rate of compensation prescribed for Level III of the Executive Schedule under section 5314 of title 5, United States Code, and reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Assistance Board, as set forth in the bylaws issued by the Board of Directors, except that such level shall not exceed the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States.

"(e) RULES AND RECORDS.—The Board of Directors of the Assistance Board shall adopt such rules as it may deem appropriate for the transaction of the business of the Assistance Board, and shall keep permanent and accurate records and minutes of its acts and proceedings.

"(f) QUORUM REQUIRED.—A quorum shall consist of two members of the Board of Directors. All decisions of the Board shall require an affirmative vote of at least a majority of the members voting.

"(g) CHIEF EXECUTIVE OFFICER.—A chief executive officer of the Assistance Board shall be selected by the Board of Directors of the Assistance Board and shall serve at the pleasure of the Board. 101 STAT. 1587

"SEC. 6.3. CORPORATE POWERS. 12 USC 2278a-3.

"(a) IN GENERAL.—The Assistance Board shall be a body corporate that shall have the power to—

"(1) operate under the direction of its Board of Directors;

"(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

"(3) provide for one or more vice presidents, a secretary, a treasurer, and such other officers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(4) hire, promote, compensate, and discharge officers and employees of the Assistance Board, without regard to title 5, United States Code, except that no such officer or employee shall receive an annual rate of basic pay in excess of the rate prescribed for Level III of the Executive Schedule under section 5314 of title 5, United States Code;

"(5) prescribe by its Board of Directors its bylaws, that shall be consistent with law, and that shall provide for the manner in which—

"(A) its officers, employees, and agents are selected;

"(B) its property is acquired, held, and transferred;

"(C) its general operations are to be conducted; and

"(D) the privileges granted by law are exercised and enjoyed;

"(6) with the consent of any executive department or independent agency, use the information, services, staff, and facilities of such in carrying out this title;

Contracts. "(7) enter into contracts and make advance, progress, or other payments with respect to such contracts;

"(8) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

"(9) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its operations;

"(10) obtain insurance against loss;

Contracts. "(11) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this title;

"(12) deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) and pay fees therefor and receive interest thereon as may be agreed; and

"(13) exercise other powers as set forth in this title, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this title.

"(b) POWER TO REMOVE; JURISDICTION.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Assistance Board is a party shall be deemed to arise under the laws of the United States, and the United States District Court for the District of Columbia shall have original jurisdiction over such. The Assistance Board may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

101 STAT. 1588

12 USC 2278a-4. "SEC. 6.4. CERTIFICATION OF ELIGIBILITY TO ISSUE PREFERRED STOCK.

"(a) BOOK VALUE LESS THAN PAR VALUE OF STOCK AND EQUITIES.—If the book value of the stock, participation certificates, and other similar equities of a System institution, based on generally accepted accounting principles, is less than the par value of the stock or the face value of the certificates or equities—

"(1) the Farm Credit Administration shall notify the Assistance Board of such impairment;

"(2) the Assistance Board shall monitor the financial condition, business plans, and operations of the institution; and

"(3) the institution may request the Assistance Board to grant certification to issue preferred stock under section 6.27(a).

"(b) BOOK VALUE LESS THAN 75 PERCENT OF PAR VALUE OF STOCK AND EQUITIES.—If the book value of the stock, participation certificates, and other similar equities of a System institution, based on generally accepted accounting principles, is less than 75 percent of the par value of the stock or the face value of the certificates or equities, the institution shall request the Assistance Board to grant certification to issue preferred stock under section 6.27(a).

"(c) MANDATORY DETERMINATION OF ELIGIBILITY.—

"(1) IN GENERAL.—The Assistance Board shall determine whether to certify a System institution as eligible to issue preferred stock under section 6.27, if—

"(A) the institution requests such certification;

"(B) the book value of the stock, participation certificates, and other similar equities of the institution, based on generally accepted accounting principles, has declined to 75 percent of the par value of the stock or the face value of the certificates or equities; and

"(C) the institution agrees to meet the terms and conditions specified by the Assistance Board pursuant to section 6.6.

"(2) EFFECTIVE DATE OF CERTIFICATION.—If the determination of the Assistance Board is to certify the institution under paragraph (1), such certification shall be effective at the time of such determination.

"(c) IMPLEMENTATION.—As soon as practicable after the date of the enactment of this title, the Assistance Board shall take such actions as are necessary to carry out this section.

"(d) DEFINITION.—Except where otherwise provided in this Act, the term 'other similar equities' includes allocated equities.

"SEC. 6.5. ASSISTANCE. 12 USC 2278a-5.

"(a) IN GENERAL.—The Assistance Board shall assist an institution that has been certified under section 6.4 by—

"(1) authorizing the institution to issue preferred stock under the appropriate provision of section 6.27, in amounts necessary to maintain the book value of stock, participation certificates, and other similar equities of the institution, at the level provided for in subsection (c);

"(2) in the case of high-cost debt for which the institution is primarily liable, authorizing the institution to issue preferred stock under the appropriate provision of section 6.27, in an amount equal to the premium that would be required by the holder of the debt for the institution to retire the debt at the then current market value;

101 STAT. 1589

"(3) on a request by the institution, authorizing the issuance of preferred stock under the appropriate provision of section 6.27 to facilitate the merger of the requesting institution with one or more other System institutions; or

"(4) providing assistance by such other methods as the Assistance Board determines appropriate.

"(b) DEFINITION OF HIGH-COST DEBT.—For purposes of subsection (a)(2), the term 'high-cost debt' means securities or similar obligations issued before January 1, 1986, that mature on or after December 31, 1987, and bear a rate of interest in excess of the then current market rate for similar securities or obligations.

"(c) MINIMUM EQUITY VALUE.—The Assistance Board shall authorize a certified institution to issue amounts of preferred stock under the appropriate provision of section 6.27 sufficient to—

"(1) maintain the value of stock, participation certificates and other similar equities at no less than 75 percent of the par value of the stock or the face value of the certificates or equities, as determined under generally accepted accounting principles; and

"(2) strengthen the institution to a point where it is economically viable, and capable of delivering credit at reasonable and competitive rates.

"(d) LIMITATION.—No assistance shall be provided in connection

with a merger until the stockholders and the institutions involved have approved the merger and the Farm Credit Administration has given final approval to the merger plan.

12 USC 2278a-6.

"SEC. 6.6. SPECIAL POWERS.

"(a) IN GENERAL.—In the case of a System institution that requests certification under section 6.4, the Assistance Board may—

"(1) require the institution to obtain approval from the Assistance Board before implementing business, operating, and investment plans and policies;

"(2) if one or more of the conditions described in section 4.12(b) are met, as determined by the Farm Credit Administration, direct the Farm Credit Administration Board to appoint a conservator for the institution, in accordance with such section, and to instruct the conservator to evaluate the operations of the institution and report to the Farm Credit Administration Board and the Assistance Board on the possibility of restoring the institution to sound financial condition;

"(3) request that the Farm Credit Administration Board or the Farm Credit Administration, as appropriate—

"(A) approve or require a merger or consolidation of the institution to the extent authorized under this Act;

"(B) initiate action to appoint a receiver under section 4.12(b); or

"(C) exercise any enforcement power authorized under this Act;

"(4) require the institution to obtain approval from the Assistance Board before setting the terms and conditions of any debt issuances of the institution;

"(5) require the institution to obtain approval from the Assistance Board before setting the policy on credit standards to be used, and the policy on rates of interest to be charged on loans, by the institution, including requiring that—

"(A) the institution set interest rates at levels necessary
101 STAT. 1590
to ensure that the cost of money to the institution reflects the marginal cost to the institution of borrowing an additional amount of money at the time a new loan is made; and

"(B) loans primarily secured by real estate mortgages not exceed 85 percent of the appraised agricultural value of the real estate security, or 75 percent of the then current market value of the real estate security, whichever is greater;

"(6) require the institution to obtain approval from the Assistance Board for the design of management information and accounting systems at the institution, and of the continued use by the institution of regulatory accounting practices in accordance with sections 4.8(b) and 5.19(b);

"(7) require that the plans and policies of the institution resulting from the merger of System banks reduce the overhead costs of such institution, to the maximum extent practicable, with respect to the delivery of services to, and performance of duties for, System associations in the district;

"(8) require the institution to obtain approval from the Assistance Board of—

"(A) the hiring policies of the institution;

"(B) the compensation and retirement benefits of the chief executive officer, other managers, and directors of the institution notwithstanding the authority of the Farm Credit Administration to approve such matters under sections 5.5 and 5.17(a)(15);

"(C) any change in the management of the institution; and

"(D) policy decisions regarding continued employment and promotion of the officials referred to in subparagraph (B);

"(9) may suspend for any period of time, or terminate, any certification granted to an institution under section 6.4 if the

Farm Credit Administration notifies the Assistance Board that the institution has substantially deviated from the institution's business plan or has failed to comply with a term or condition governing the use of any financial assistance provided to the institution under this title; and

"(10) take such other action as the Assistance Board determines may be necessary to establish prudent operating practices at the institution and to return the institution to a sound financial condition.

"(b) SUSPENSION OF ASSISTANCE.—

"(1) NOTIFICATION.—The Assistance Board shall promptly notify the Farm Credit Administration of any action taken by the Assistance Board under subsection (a)(8).

"(2) ENFORCEMENT.—The Farm Credit Administration may use any of its enforcement powers, with respect to any institution to which the Assistance Board has provided assistance or has certified the institution to issue preferred stock under the appropriate provision of section 6.27, to obtain the compliance of the institution with the terms or conditions governing the use of financial assistance provided under this title.

"(c) UNDATED LETTERS OF RESIGNATION.—The Assistance Board shall not, for any reason, request or require any member of the board of directors of any System institution to submit to the Assistance Board an undated letter of resignation. Immediately after the 101 STAT. 1591
date of the enactment of this title, the Assistance Board shall destroy all such letters over which it has control.

"(d) REPORTS.—During the 5-year period beginning on the date of the enactment of this title, the Assistance Board, in coordination with the Financial Assistance Corporation, shall report annually to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the extent to which System institutions translate the savings in the cost of the operations of such institutions due to the Federal assistance provided to the System under this title into lower interest rates charged to System borrowers or enhanced financial solvency of such institutions.

"SEC. 6.7. ADMINISTRATION. 12 USC 2278a-7.

"(a) EXPENSES.—The Financial Assistance Corporation shall pay the necessary and reasonable administrative expenses of the Assistance Board from funds in the Assistance Fund established in section 6.25.

"(b) INTERIM FUNDING.—Before the availability of funding from the Assistance Fund, the Assistance Board may use the revolving fund established under section 4.0. Such amounts used shall be repaid to the revolving fund out of the Assistance Fund within the same fiscal year that such funds were received by the Assistance Board.

"(c) ASSISTANCE OPERATIONS.—The Farm Credit Administration shall provide such personnel and facilities to the Assistance Board as the Farm Credit Administration considers are necessary to avoid unnecessary duplication and waste.

"(d) ACCESS TO FCA DOCUMENTS.—The Assistance Board shall have access to all reports of examination and supervisory documents of the Farm Credit Administration, and relevant supporting material for the purpose of carrying out the special powers of the Assistance Board under section 6.6, under terms and conditions that are acceptable to the Farm Credit Administration Board, as are necessary and appropriate to protect the confidentiality of the documents and materials. Classified information.

"SEC. 6.8. LIMITATION OF POWERS. 12 USC 2278a-8.

"(a) PURPOSES.—The powers of the Assistance Board under this title shall be exercised only for the purposes specified in this title and shall not be exercised in a manner that would result in the Assistance Board supplanting the Farm Credit System lending

institutions as the primary providers of credit and other financial services to farmers, ranchers, and the cooperatives of such.

"(b) PROHIBITION.—The powers of the Assistance Board under this title shall not include the management, administration, or disposition of any loans or other assets owned by other System institutions, or the providing of technical assistance or other related services to other System institutions in connection with the administration of loans owned by such other institutions.

12 USC 2278a-9. Contracts.

"SEC. 6.9. SUCCESSION.

"(a) LIABILITIES.—On the issuance by the Farm Credit Administration of the charter for the Assistance Board under this subtitle, the Assistance Board shall succeed to the assets of and assume all debts, obligations, contracts, and other liabilities of the Capital Corporation, matured or unmatured, accrued, absolute, contingent or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the Capital Corporation.

101 STAT. 1592

"(b) CONTRACTS.—The existing contractual obligations, security instruments, and title instruments of the Capital Corporation shall, by operation of law and without any further action by the Farm Credit Administration, the Capital Corporation, or any court, become and be converted into obligations, entitlements, and instruments of the Assistance Board chartered under this subtitle.

"(c) ADJUSTMENT OF ASSESSMENTS.—Not later than 15 days after the issuance of the charter of the Assistance Board, the Board shall retire all debt and equity obligations issued to any System institution under section 4.28G(a)(14) or 4.28H (as in effect immediately before the date of the enactment of this title) at the book value of such obligations (determined as of such date of enactment) and shall pay such amounts to the holders of such debt and equity obligations.

Contracts.

"(d) SURPLUS FUNDS.—To the extent that, on the extinguishing of liabilities assumed by the Assistance Board under this section, and on full performance or other final disposition of contract obligations of the Assistance Board, there remain surplus funds attributable to such obligations or contracts, the Assistance Board shall distribute such surplus funds among the System institutions that contributed funds to the Capital Corporation on the basis of the relative amount of funds so contributed by each institution.

"(e) PRESERVATION AGREEMENTS.—

"(1) TRANSFER OF OBLIGATIONS.—Notwithstanding any other provision of this Act or the terms and conditions of the Thirty-Seven Banks Capital Preservation Agreement, the Federal Land Banks Capital Preservation Agreement, the Federal Intermediate Credit Banks Capital Preservation Agreement, and the Banks for Cooperatives Loss Sharing Agreement—

"(A) at the time the receiving bank receives funds from the Financial Assistance Corporation in an equal and equivalent amount in accordance with this subsection, any amounts received by, or that remain accrued to, any System bank in accordance with the activation of any such agreement for the calendar quarter ending on September 30, 1986, shall be—

"(i) repaid to the contributing bank by the bank that received such payments; or

"(ii) cancelled;

"(B) on the date the Financial Assistance Corporation is chartered, the accounts payable of each contributing bank under such agreements for the calendar quarter ending on September 30, 1986, shall, by operation of law and without any further action by such contributing bank, any other bank, or any court, become and be converted into accounts payable of the Financial Assistance Corporation to each receiving bank under such agreement for such calendar quarter in the same amounts as previously carried on the books of each such receiving bank; and

"(C) on the date the Financial Assistance Corporation is chartered, the accounts receivable of each receiving bank under such agreements for the calendar quarter ending September 30, 1986, shall, by operation of law and without any further action by such receiving bank or any other bank, or any court, become and be converted into accounts receivable to such receiving bank from the Financial Assist- 101 STAT. 1593
ance Corporation, in the same amount as previously carried on the books of such receiving bank and such receivables shall, for all financial reporting purposes, be accounted for as an asset on the books of such receiving bank in accordance with generally accepted accounting practices.

"(2)(A) Not later than 30 days after the first issuance of obligations by the Financial Assistance Corporation in accordance with section 6.26, the Corporation shall pay to each receiving bank such sums as are necessary to permit each receiving bank to repay, in accordance with paragraph (1), the amounts each such receiving bank received under any such agreement.

"(B) The accruals shall be paid by the Corporation to each receiving bank for the actual net loan charge-offs recorded on the books of each such bank before January 1, 1993, not previously paid by the contributing banks.

"(3) DEBT OBLIGATIONS.—

"(A) ISSUANCE.—For the purpose of obtaining funds to carry out this subsection, the Financial Assistance Corporation shall issue debt obligations under section 6.26. Such obligations shall be subject to the terms and conditions of such section, except as provided for in this paragraph.

"(B) PAYMENT OF INTEREST.—During each year of the 15-year period of such obligation issued pursuant to subparagraph (A), the banks operating under this Act shall pay to the Financial Assistance Corporation, at such times as the Corporation shall determine, an amount equal to the entire amount of interest due on such obligation. Each bank shall pay a proportion of such interest equal to—

"(i) the average accruing loan volume of the bank during the year preceding the year of such payment; divided by

"(ii) the average accruing loan volume of all of the banks of the System for the same period.

"(C) PAYMENT OF PRINCIPAL.—After the end of the 15-year period beginning on the date of the issuance of any obligation issued to carry out this subsection, the banks operating under this Act shall pay to the Financial Assistance Corporation, on demand, an amount equal to the outstanding principal of such obligation. Each bank shall pay a proportion of such principal equal to—

"(i) the average accruing loan volume of the bank for the preceding 15 years; divided by

"(ii) the average accruing loan volume of all banks of the System for the same period.

"(D) Until each obligation issued in accordance with this subsection reaches maturity, for all financial reporting purposes, such obligation shall be considered to be the sole obligation of the Financial Assistance Corporation and shall not be considered a liability of any System bank.

"(4) FUNDS NOT CONSIDERED FINANCIAL ASSISTANCE.—The funds made available to each bank, whether through the issuance of stock or otherwise, by the Financial Assistance Corporation to meet obligations under any agreement referred to in paragraph (1) or to meet any obligations of the contributing banks under any such agreement, as required by this subsection, shall not be considered financial assistance under this Act.

101 STAT. 1594

"(5) SUSPENSION OF PRESERVATION AGREEMENTS.—During the 5-year period beginning on the date of enactment of this subsection and thereafter whenever funds from the Farm Credit System Insurance Fund are available for use in assisting System institutions to meet their obligations on their debt instruments, the Thirty-Seven Banks Capital Preservation Agreement, the Federal Land Banks Capital Preservation Agreement, the Federal Intermediate Credit Banks Capital Preservation Agreement, and the Banks for Cooperatives Loss Sharing Agreement shall be suspended, in exchange for the benefits flowing to the signatories to such agreements under the Agricultural Credit Act of 1987.".

12 USC 2278a-10.

"SEC. 6.10. EFFECT OF REGULATIONS; AUDITS.

"(a) ISSUANCE.—The Assistance Board may issue such regulations, policies, procedures, guidelines, or statements as the Board considers necessary or appropriate to carry out this title, all of which shall be promulgated and enforced without regard to subchapter II of chapter 5 of title 5, United States Code.

"(b) REGULATION BY FARM CREDIT ADMINISTRATION.—The Assistance Board shall not be subject to regulation by the Farm Credit Administration.

"(c) AUDITS.—The Assistance Board shall not require an audit or examination of a System institution that would be duplicative of an audit or examination that is conducted under other provisions of law.

12 USC 2278a-11.
State and local governments.

"SEC. 6.11. EXEMPTION FROM TAXATION.

"The Assistance Board, the capital, reserves, and surplus thereof, and the income derived therefrom, shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by the Assistance Board to the same extent, according to its value, as other similar property held by other persons is taxed.

12 USC 2278a-12.

"SEC. 6.12. TERMINATION.

"The Assistance Board and the authority provided by this subtitle shall terminate on December 31, 1992.

12 USC 2278a-13.

"SEC. 6.13. TRANSITIONAL PROVISIONS.

"(a) EXERCISE OF POWERS.—The powers of the Assistance Board under this title shall be exercised by the Farm Credit Administration Board until the issuance of the charter of the Assistance Board, or such later date not to exceed 30 days thereafter, as may be requested by the Assistance Board.

"(b) LIMITATION ON ASSISTANCE.—Any assistance provided to System institutions by the Farm Credit Administration in accordance with this section shall be provided from, and shall not exceed, the amounts contained in the revolving fund established under section 4.0.

"(c) ISSUANCE OF STOCK.—Each institution that receives assistance from the Farm Credit Administration during the interim period specified in subsection (a), in consideration thereof, shall issue preferred stock to the Financial Assistance Corporation in an amount equal to the amount of such assistance. Payments by the Financial Assistance Corporation under subsection (d) shall be considered to be payments to each such institution for such stock.

101 STAT. 1595

"(d) REPAYMENT.—The Financial Assistance Corporation shall pay to the Farm Credit Administration the full amount of all financial assistance provided by the Farm Credit Administration in accordance with this section, from the proceeds from the sale of the first issue of obligations by the Financial Assistance Corporation in accordance with section 6.26.

"Subtitle B—Financial Assistance Corporation

"SEC. 6.20. ESTABLISHMENT OF CORPORATION. 12 USC 2278b.

"Not later than 5 days after the date of the enactment of this title, the Farm Credit Administration shall charter the Farm Credit System Financial Assistance Corporation (hereinafter referred to in this Act as the 'Financial Assistance Corporation') which shall be—

"(1) an institution of the Farm Credit System; and

"(2) a Federally chartered instrumentality of the United States.

"SEC. 6.21. PURPOSE. 12 USC 2278b-1.

"The purpose of the Financial Assistance Corporation shall be to carry out a program to provide capital to institutions of the Farm Credit System that are experiencing financial difficulty.

"SEC. 6.22. BOARD OF DIRECTORS. 12 USC 2278b-2.

"(a) BOARD OF DIRECTORS.—

"(1) COMPOSITION.—The Board of Directors of the Financial Assistance Corporation (hereinafter referred to in this Act as the 'Board of Directors') shall consist of the Board of Directors of the Federal Farm Credit Banks Funding Corporation.

"(2) CHAIRMAN.—The Board of Directors shall elect annually a Chairman from among the members of the Board.

"(3) COMPENSATION.—The members of the Board of Directors shall receive compensation for the time devoted to meetings and other activities of the Board and reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Board of Directors in amounts not exceeding levels set by the Farm Credit Administration Board.

"(b) RULES AND RECORDS.—The Board of Directors shall adopt such rules as it may deem appropriate for the transaction of its business and shall keep permanent and accurate records and minutes of its acts and proceedings.

"(c) QUORUM REQUIRED.—No business may be conducted at a meeting of the Board of Directors unless a quorum of the members of the Board is present, and a vote to approve an action requires a majority vote of the members voting.

"(d) CHIEF EXECUTIVE OFFICER.—A chief executive officer of the Financial Assistance Corporation shall be selected by the Board of Directors and shall serve at the pleasure of the Board.

"SEC. 6.23. STOCK. 12 USC 2278b-3.

"The Financial Assistance Corporation shall issue stock with a par value of $5 to System institutions, as provided for in this subtitle, and such stock shall not be transferable.

101 STAT. 1596

"SEC. 6.24. CORPORATE POWERS. 12 USC 2278b-4.

"(a) IN GENERAL.—The Financial Assistance Corporation shall have the power to—

"(1) operate under the direction of its Board of Directors;

"(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

"(3) provide for such officers, employees, and agents, including joint employees with the Funding Corporation, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(4) adopt a salary scale for officers and employees of the Financial Assistance Corporation, in accordance with the directives of the Board of Directors;

"(5) prescribe by its Board of Directors bylaws, that are not inconsistent with law, and that shall provide for the manner in which—

"(A) its officers, employees, and agents are selected;

"(B) its property is acquired, held, and transferred;

"(C) its general business is conducted; and

"(D) the privileges granted by law are exercised and enjoyed;

Contracts.

"(6) enter into contracts and make advance, progress, or other payments with respect to such contracts;

"(7) sue and be sued in its corporate name and complain and defend in courts of competent jurisdiction;

"(8) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its business;

"(9) obtain insurance against loss;

Contracts.

"(10) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this subtitle;

"(11) borrow from any commercial bank on its own individual responsibility and on such terms and conditions as it may determine with the approval of the Farm Credit Administration;

"(12) deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) and pay fees therefor and receive interest thereon as may be agreed; and

"(13) exercise such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with its charter and this subtitle.

"(b) POWER TO REMOVE, AND JURISDICTION.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Financial Assistance Corporation is a party shall be deemed to arise under the laws of the United States, and the United States District Court for the District of Columbia shall have original jurisdiction over such. The Financial Assistance Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

101 STAT. 1597

12 USC 2278b-5.

"SEC. 6.25. ACCOUNTS.

"(a) FARM CREDIT ASSISTANCE FUND.—

"(1) ESTABLISHMENT.—The Financial Assistance Corporation shall establish an account called the Farm Credit Assistance Fund (referred to in this Act as the 'Assistance Fund') which shall be available to the Financial Assistance Corporation as a revolving fund to carry out this subtitle. The moneys of such Assistance Fund shall be invested in direct obligations of the United States or obligations guaranteed by the United States or an agency thereof.

"(2) FUNDING.—The Assistance Fund shall be funded through the issuance of debt obligations and payments, as provided in section 6.26, and payments, as provided in section 6.28.

"(b) FINANCIAL ASSISTANCE CORPORATION TRUST FUND.—The Financial Assistance Corporation shall establish an account called the Financial Assistance Corporation Trust Fund (hereinafter referred to in this Act as the 'Trust Fund') that shall consist of securities of the United States Treasury purchased by the Financial Assistance Corporation with the funds received from the purchase of stock by System institutions from the Financial Assistance Corporation under section 6.29.

"SEC. 6.26. DEBT OBLIGATIONS. 12 USC 2278b-6.

"(a) ISSUANCE.—During the period beginning 61 days after the date of the enactment of this title and ending September 30, 1992, the Financial Assistance Corporation, subject to the approval of the Assistance Board, may issue uncollateralized bonds, notes, debentures, and similar obligations, guaranteed as to the timely payment of principal and interest by the Secretary of the Treasury as set forth in subsection (d), with semiannual interest coupon payments and a maturity period of 15 years—

"(1) in an aggregate amount not to exceed $2,800,000,000; and

"(2) beginning January 1, 1989, in an additional amount, not to exceed $1,200,000,000, if—

"(A) debt obligations have been issued by the Corporation to the full extent authorized under paragraph (1);

"(B) the Assistance Board determines that such additional funds are needed to carry out this title; and

"(C) at least 90 days before the issuance of any debt obligations under this paragraph, the Assistance Board submits a report to Congress that sets forth the determination of the Assistance Board that such additional debt obligations should be issued, and that contains a detailed evaluation supporting the determination. Reports.

"(b) CONDITIONS.—The debt obligations shall be in such forms and denominations, bear such rates of interest, be subject to such conditions, be issued in such manner, and be sold at such prices as may be prescribed by the Financial Assistance Corporation.

"(c) INTEREST PAYMENTS.—

"(1) PAYMENT OF INTEREST DURING FIRST 5-YEAR PERIOD.—During each year of the first 5-year period of the 10-year period beginning on the date of issuance of each obligation under subsection (a), the Financial Assistance Corporation shall pay, without recourse to System institutions, other than that described in paragraph (5), all of the interest due on such obligation.

"(2) PAYMENT OF INTEREST DURING SECOND 5-YEAR PERIOD.— 101 STAT. 1598

"(A) IN GENERAL.—During each year of the second 5-year period of the 10-year period beginning on the date of issuance of each obligation under subsection (a), the Financial Assistance Corporation shall pay all of the interest due on such obligation.

"(B) PAYMENT BY SYSTEM INSTITUTIONS TO FINANCIAL ASSISTANCE CORPORATION.—During each year of the second 5-year period, System institutions shall pay to the Financial Assistance Corporation 50 percent of the interest due on the obligations, except that System institutions shall pay an additional 10 percent of the interest expense for each 1 percent that the unallocated retained earnings of the System (as determined under generally accepted accounting principles) exceed 5 percent of net assets (total assets less allowance for loan losses) based on a year-end financial statement for the preceding year.

"(C) ALLOCATION.—During each year of the second 5-year period, each System institution shall pay to the Financial Assistance Corporation a proportion of the interest due from System institutions under this paragraph equal to—

"(i) the amount of the performing loan volume of the institution (based on the average loan volume for the preceding year); divided by

"(ii) the total performing loan volume of the System for the preceding year.

"(D) SPECIAL RULE.—For purposes of determining the average loan volume of Federal intermediate credit banks, loan volume shall consist of loans made by such banks with the exception of loans made to production credit associations.

"(3) PAYMENTS BY TREASURY.—The Secretary of the Treasury, in accordance with section 6.28, shall pay to the Financial Assistance Corporation, in a timely manner, the balance of each interest payment not made by the System institutions.

"(4) PAYMENT OF INTEREST AFTER FIRST 10-YEAR PERIOD.—During each year of the third 5-year period of the 15-year period beginning on the date of the issuance of each obligation under subsection (a), the Financial Assistance Corporation shall pay all of the interest due on such obligation. During each year of such 5-year period, System institutions shall pay the entire amount of interest due on the obligation allocated in the same manner as under paragraph (2)(C). Such payments shall be made to the Financial Assistance Corporation at such times as the Financial Assistance Corporation shall determine.

"(5) REPAYMENT BY SYSTEM INSTITUTIONS.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph, the institutions of the Farm Credit System shall, on a fair and equitable basis, repay to the Secretary of the Treasury the total amount of any annual interest charges on debt obligations issued under subsection (a) that such institutions have not previously paid, and such institutions shall not be required to pay any additional interest charges on such payments.

"(B) TIME OF PAYMENT.—The institutions of the Farm Credit System shall begin making interest payments when the Farm Credit Administration, in consultation with the Secretary of the Treasury, determines that such institutions possess the financial viability to make such payments, except that such institutions shall not be required to begin making such payments until the obligations issued under subsection (d)(1)(C) have been fully repaid.

101 STAT. 1599

"(C) TERMS OF PAYMENTS.—

"(i) IN GENERAL.—The institutions of the Farm Credit System shall make interest payments at such levels, and on such dates, as the Farm Credit Administration determines appropriate, except that the Farm Credit Administration shall not set payment levels or dates that would jeopardize the financial viability of any such institution.

"(ii) LIMITATIONS.—The institutions of the Farm Credit System shall not be required to make such repayments in a manner that—

"(I) impairs the stock of such institution; or

"(II) jeopardizes the minimum capital requirements of the institution.

"(iii) UNCOLLATERALIZED OBLIGATION.—Obligations to make repayments under this paragraph shall not be required to be collateralized.

"(d) REFINANCING AND PAYMENT OF PRINCIPAL.—

"(1) IN GENERAL.—

"(A) TIME OF REPAYMENT.—On maturity of an obligation issued under subsection (a), the obligation shall be repaid by the Financial Assistance Corporation.

"(B) PAYMENTS BY INSTITUTIONS.—Except as provided in subparagraph (C), in order to enable the Financial Assistance Corporation to repay the obligation referred to in subparagraph (A), each institution that issued preferred stock under section 6.27(a) with respect to such obligation (or the successor thereto) shall pay to the Financial Assistance Corporation, before the maturity date of such obligation, an amount equal to the par value of such stock outstanding for such institution.

"(C) SYSTEMWIDE REPAYMENT.—In order to enable the Financial Assistance Corporation to repay the obligations referred to in section 410(c) of the Agricultural Credit Act of

1987, each System institution shall pay to the Financial Assistance Corporation a proportion of such principal equal to—

"(i) the average performing loan volume of the bank for the preceding 15 years; divided by

"(ii) the average performing loan volume of all of the System banks for the same period.

"(D) SPECIAL RULE.—For purposes of determining the average loan volume of Federal intermediate credit banks, loan volume shall consist of loans made by such banks with the exception of loans made to production credit associations.

"(E) FUNDS FOR PAYMENTS.—Payments under subparagraph (B) shall be made by each such institution from the funds of the institution or from funds raised by the institution through the issuance of debt obligations, which may be issued without a collateral requirement and without any guarantee by the Secretary of the Treasury.

101 STAT. 1600

"(2) REFINANCED OBLIGATIONS.—The refinanced obligations issued under paragraph (1) shall be solely the obligations of the institutions refinancing such, and sections 4.3 and 4.4 shall not apply to such obligations.

"(3) DEFAULTS.—

"(A) INTEREST.—

"(i) PAYMENT BY CORPORATION.—If a System institution defaults on the payment of interest due under this subsection during the first 15 years after an obligation is issued under subsection (a), the Financial Assistance Corporation shall pay the amount of the interest due by the System institution out of the Trust Fund, and shall recover the amount of the interest due from the defaulting System institution, and such amount shall be paid to the Trust Fund.

"(ii) PAYMENT BY INSURANCE FUND.—If the Financial Assistance Corporation has not recovered the full amount of interest due from a defaulting institution by the end of the 12-month period beginning on the date of default, such uncollected interest shall be paid to the Trust Fund from the Insurance Fund established under section 5.60, to the full extent of funds available in the Insurance Fund as of the date the Financial Assistance Corporation notified the Farm Credit System Insurance Corporation of amounts due under this section.

"(iii) PAYMENT BY REMAINING INSTITUTIONS.—To the extent that the payment from the Insurance Fund is insufficient to reimburse the Trust Fund, the remaining balance shall be added to the amount of interest due from remaining System institutions, under this subsection, and each remaining System institution, subject to the special rule provided in subsection (c)(2)(D), shall pay to the Trust Fund a proportion of the uncollected interest equal to—

"(I) the amount of the performing loan volume of the institution (based on the average loan volume for the preceding year); divided by

"(II) the total performing loan volume of the System.

"(B) PRINCIPAL.—

"(i) EVALUATION.—Not later than 90 days before the maturity of any obligation issued under subsection (a), the Farm Credit Administration shall complete an evaluation of the general financial condition of each System institution that issued preferred stock under section 6.27(a) with respect to such obligation to determine whether such System institution will be able to redeem such stock at par value on the maturity of the obligation, and remain a viable institution capable of

providing credit to eligible borrowers at equitable and competitive interest rates.

"(ii) AVAILABILITY OF EVALUATION.—A copy of the evaluation required under clause (i) shall be furnished to the Secretary of the Treasury and the appropriate committees of Congress.

101 STAT. 1601

"(iii) REDEMPTION BY INSTITUTION; PURCHASE BY SECRETARY OF THE TREASURY.—If the Farm Credit Administration determines, in consultation with the Secretary of the Treasury, on the basis of the evaluation required under clause (i), that the redemption of such stock at par value would impair the other stock or equities of such institution or render such institution incapable of meeting its capital adequacy standards, the institution shall be prohibited from redeeming the preferred stock it issued under section 6.27 with respect to the maturing obligation. If the Farm Credit Administration determines, in consultation with the Secretary of the Treasury, on the basis of the evaluation required under clause (i), that such institution will be able to redeem, in a timely manner and at par value, the preferred stock it issued under section 6.27 with respect to the maturing obligation, and remain a viable and competitive institution, such institution shall have the option of redeeming or not redeeming such stock. If such institution elects not to redeem such stock, the Financial Assistance Corporation shall withdraw funds from the Trust Fund in an amount equal to the par value of the preferred stock issued by such institution under section 6.27 so as to enable the Financial Assistance Corporation to pay the principal of the maturing obligation. Simultaneously with such withdrawal of funds from the Trust Fund, the Financial Assistance Corporation shall transfer to the Insurance Fund an equal amount, at par value, of preferred stock of such institution. To the extent that the Trust Fund is insufficient to enable the Financial Assistance Corporation to pay the full principal of the maturing obligation, the Insurance Fund shall be used by the Farm Credit System Insurance Corporation to purchase, at par value, the preferred stock issued by such institution under section 6.27(a) to enable the Financial Assistance Corporation to pay the principal of the maturing obligation. To the extent that the Insurance Fund is insufficient to enable the Financial Assistance Corporation to pay the full principal of the maturing obligation, the Secretary of the Treasury shall purchase, at par value, the remaining quantity of the preferred stock issued by such institution to enable the Financial Assistance Corporation to make such full payment. For that purpose, the Secretary of the Treasury may use, as a public debt transaction, the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code. The purposes for which such securities may be issued under such chapter are extended to include such purchases of stock. Any preferred stock transferred to, or purchased by, the Farm Credit System Insurance Corporation under this clause shall be retired by the issuing institution at such times and under such terms and conditions as are agreed to between the Insurance Corporation and such institution.

"(C) RECOURSE BY OTHER SYSTEM INSTITUTIONS.—A defaulting institution shall be liable to the remaining System institutions for the amount of any interest paid by the remaining institutions under this paragraph.

"(4) PAYMENT BY UNITED STATES.— 101 STAT. 1602

"(A) INABILITY TO PAY.—Notwithstanding any other provision of this Act, if the Financial Assistance Corporation is unable to pay the principal or interest of any obligation issued under subsection (a), the Secretary of the Treasury shall pay to the Financial Assistance Corporation the amount due which shall be used by the Financial Assistance Corporation to pay the obligation.

"(B) RECOVERY.—

"(i) INTEREST PAYMENTS.—In each instance in which the Secretary of the Treasury is required to make a payment under subparagraph (A) to the Financial Assistance Corporation as a result of a default made by a System institution on interest due from such System institution under subsection (c), the Secretary of the Treasury shall recover the amount of the payments the Secretary made, with respect to each defaulting institution, from such defaulting institution. If the Secretary has not recovered the full amount due from the defaulting institution by the end of the 12-month period beginning on the date of payment by the Secretary, the uncollected amount shall be paid to the Secretary from the Insurance Fund established under section 5.60.

"(ii) PRINCIPAL PAYMENTS.—In each instance in which the Secretary of the Treasury is required under paragraph (3)(B)(iii) to purchase preferred stock issued by a System institution under section 6.27(a), the Farm Credit System Insurance Corporation shall use funds deposited in the Insurance Fund to repurchase, at par value, from the Secretary of the Treasury such stock required to be purchased under paragraph (3)(B)(iii) as funds become available for such repurchase.

"(iii) PRIORITY.—Notwithstanding any other provision of this Act except for section 5.60, during any year in which payments are due to the Secretary of the Treasury from the Insurance Fund under clause (i), or preferred stock held by the Secretary is due to be repurchased by the Insurance Fund under clause (ii), the funds in such Fund, and all funds deposited in such Fund during such year, shall be used first for the purposes specified in clauses (i) and (ii).

"SEC. 6.27. PREFERRED STOCK. 12 USC 2278b-7.

"(a) ISSUANCE.—

"(1) IN GENERAL.—Each System institution that is certified under section 6.4 (a) or (b) may issue a special class of preferred stock only in an amount, and subject to such terms and conditions, as authorized by the Assistance Board.

"(2) DIVIDENDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), dividends shall not be payable on stock issued under this section.

"(B) EXCEPTION.—Stock issued under this section shall be issued under such terms and conditions as to enable the Secretary of the Treasury, with respect to any of such stock the Secretary purchases under section 6.26(d)(3)(B)(iii), and the Reserve Account Board, with respect to any of such 101 STAT. 1603
stock that the Board purchases or otherwise acquires under section 6.26(d)(3)(B)(iii) or section 6.26(d)(4)(B)(ii), to establish for such stock a stated dividend rate equal to the current market yield on outstanding, marketable obligations of the United States with maturities of 30 years, plus a premium to reflect the cost of capital for institutions in financial distress.

"(3) VOTING RIGHTS.—A holder of stock issued under this subsection shall have no voting rights with respect to the stock.

"(b) PURCHASE.—The Financial Assistance Corporation shall purchase shares of stock issued by certified System institutions under subsections (a) and (b) to the extent that the issuance of such stock is approved by the Assistance Board.

12 USC 2278b-8. "SEC. 6.28. PAYMENTS.

"(a) IN GENERAL.—Beginning in fiscal year 1989, the Secretary of the Treasury shall reimburse the Financial Assistance Corporation for any amounts such Corporation pays in interest charges under section 6.26(c) during fiscal year 1988, and thereafter the Secretary shall pay the Financial Assistance Corporation any amounts due from the Secretary to such Corporation under section 6.26(c).

"(b) REPAYMENT OF INTEREST PAID BY SECRETARY OF TREASURY.—

"(1) IN GENERAL.—Any amounts paid into the Assistance Fund by the Secretary of the Treasury pursuant to subsection (a) exceeding $2,000,000,000 shall be repaid by System institutions in accordance with a schedule to be established by the Farm Credit Administration Board.

"(2) ALLOCATION.—Until such repayment is completed, each System institution shall pay a proportionate share of the amount due under this paragraph to—

"(A) the amount of the performing loan volume of the institution, determined in accordance with subsection (c)(1)(D) (based on the average loan volume for the preceding year); divided by

"(B) the total performing loan volume of the System for the preceding year.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Treasury such sums on an annual basis as may be necessary to carry out this subtitle.

12 USC 2278b-9. "SEC. 6.29. ONE-TIME STOCK PURCHASE.

"(a) AMOUNT OF STOCK PURCHASE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), for the purpose of obtaining funds for the Trust Fund, each System institution shall purchase from the Financial Assistance Corporation stock issued in accordance with section 6.23 in an amount equal to the amount by which the unallocated retained earnings of the institution (after taking into account any funds received by the institution under section 6.9(c)) exceeds—

"(A) in the case of a System bank, 5 percent of assets; or

"(B) in the case of a production credit association or a Federal land bank association, 13 percent of assets.

"(2) REALLOCATION.—The district board of a district, subject to the unanimous consent of the bank and associations in the district that would be affected by the reallocation, may reallocate the amount of stock required to be purchased by banks and
101 STAT. 1604 associations in the district under paragraph (1) to equitably reflect the ability of the banks and associations to pay, except that—

"(A) the total amount of stock purchased by banks and associations in the district under this paragraph shall equal the total amount of stock required to be purchased by the banks and associations under paragraph (1); and

"(B) the board may not impair the stock of an association in carrying out this paragraph; and

"(C) a district board's authority to reallocate stock purchases under this paragraph shall be limited to reallocation among like associations of the amount of stock required to be purchased by such associations; reallocation of the amount of stock required to be purchased by production credit associations among such associations and the district Federal intermediate credit bank; and reallocation of the amount of stock required to be purchased by Federal land bank associations among such associations and the district Federal land bank. Other reallocations than those enumerated above shall not be permitted.

"(b) COMPUTATIONS.—For purposes of subsection (a), the unallocated retained earnings and assets of a System institution shall be computed in accordance with generally accepted accounting principles on the basis of the financial statement of the institution on December 31, 1986.

"(c) NOTICE.—Within 15 days after the retirement of the obligations of the Capital Corporation under section 6.9—

"(1) the Financial Assistance Corporation shall notify each System institution of the amount of stock such institution is required to purchase under subsection (a); or

"(2) in the case of a district in which the district board has reallocated the stock purchase requirement in accordance with subsection (a)(2), the district board shall notify each System institution in the district of the amount of stock such institution is required to purchase under subsection (a).

"(d) INSTITUTION REQUIREMENTS AFTER NOTICE.—Within 15 days after a System institution is notified of the amounts due under subsection (c), the institution shall purchase from the Financial Assistance Corporation the amount of stock required to be purchased by the institution under this section. No further stock purchases, obligations, or assessments shall be required beyond that provided in section 6.26 and this section.

"(e) JURISDICTION OVER ACTIONS.—Notwithstanding any other provision of law, the United States district court for the District of Columbia shall have exclusive jurisdiction over any action brought under or arising out of this section. No suit or proceeding shall be maintained for the recovery of any amount of stock alleged to have been erroneously or illegally purchased, and no suit or proceeding shall be maintained to enjoin or otherwise prevent or impede the giving of notice or the purchase of stock required under this section, unless the amount of stock required to be purchased under this section has been purchased and paid for in full.

"SEC. 6.30. EXEMPTION FROM TAXATION.

12 USC 2278b-10. State and local governments.

"(a) ASSETS.—The Financial Assistance Corporation, and the capital, reserves, and surplus thereof, and the income derived therefrom, shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by the Financial Assistance Corporation to the same extent, according to its value, as other similar property held by other persons is taxed.

101 STAT. 1605

"(b) OBLIGATIONS.—The notes, bonds, debentures, and other obligations issued by the Financial Assistance Corporation shall be accorded the same tax treatment as System-wide obligations.

"SEC. 6.31. TERMINATION.

12 USC 2278b-11.

"(a) FINANCIAL ASSISTANCE CORPORATION.—The Financial Assistance Corporation and the authority provided to such Corporation by this subtitle shall terminate on the maturity and full payment of all debt obligations issued under section 6.26(a).

"(b) ACCOUNTS.—Simultaneously with the termination of the Financial Assistance Corporation as provided in subsection (a), any funds in the accounts established under section 6.25 shall be transferred to the Insurance Fund established under section 5.60.".

SEC. 202. REVOLVING FUND.

Section 4.0 (12 U.S.C. 2151) is amended to read as follows:

"SEC. 4.0. REVOLVING FUND.

"(a) REVOLVING FUND.—The revolving fund established by this section (in effect immediately before the date of the enactment of the Agricultural Credit Act of 1987) shall be available to the Farm Credit Administration during the period, and for the purposes provided for, in sections 6.7(b) and 6.13.

"(b) FARM CREDIT INSURANCE FUND.—On the date the first premium is due and payable under section 5.56(c), any funds remaining in the revolving fund shall be transferred to the Farm Credit Insurance Fund in accordance with the terms and conditions established by the Farm Credit Administration.".

SEC. 203. UNSAFE OR UNSOUND PRACTICES.

Paragraph (4) of section 5.35 (12 U.S.C. 2271(4)) is amended to read as follows:

"(4) the term 'unsafe or unsound practice' shall—

"(A) have the meaning given to it by the Farm Credit Administration by regulation, rule, or order; and

"(B) during the period beginning on the date of the enactment of this paragraph and ending December 31, 1992, mean any noncompliance by a System institution, as determined by the Farm Credit Administration in consultation with the Assistance Board, with any term or condition imposed on the institution by the Assistance Board under section 6.6.".

SEC. 204. FEDERAL FARM CREDIT BANKS FUNDING CORPORATION.

(a) IN GENERAL.—Section 4.9 (12 U.S.C. 2160) is amended to read as follows:

"SEC. 4.9. FEDERAL FARM CREDIT BANKS FUNDING CORPORATION.

"(a) ESTABLISHMENT.—There is hereby established the Federal Farm Credit Banks Funding Corporation (hereinafter in this section referred to as the 'Corporation'), which shall be an institution of the Farm Credit System.

"(b) DUTIES.—The Corporation—

"(1) shall issue, market, and handle the obligations of the banks of the Farm Credit System, and interbank or intersystem flow of funds as may from time to time be required;

101 STAT. 1606

"(2) acting for the banks of the Farm Credit System, subject to approval of the Farm Credit Administration, shall determine the amount, maturities, rates of interest, terms, and conditions of participation by the several banks in each issue of joint, consolidated, or System-wide obligations; and

"(3) shall exercise such other powers as were provided to the Funding Corporation in accordance with its charter issued under section 4.25, in effect immediately before the date of the enactment of the Agricultural Credit Act of 1987.

"(c) OFFICERS AND COMMITTEES.—

"(1) DESIGNATION.—The board of directors may designate such officers and committees for such terms and such purposes as may be agreed on by the board.

"(2) ISSUANCE OF OBLIGATIONS.—When appropriate to the board's functions under this section, a committee of the board of directors of the Corporation, or representatives thereof, may act on behalf of the board in connection with the issuance of joint, consolidated, and System-wide obligations.

"(d) BOARD OF DIRECTORS.—

"(1) COMPOSITION.—The board of directors shall be composed of nine voting members and one nonvoting member, as follows:

"(A) Four voting members shall be current or former directors of the System banks elected by the shareholders of the Corporation.

"(B) Three voting members shall be chief executive officers or presidents of System banks elected by the shareholders of the Corporation.

"(C) Two voting members shall be appointed by the members elected under subparagraphs (A) and (B) after the elected members have received recommendations for such appointments from, and consulted with, the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System. The appointed members shall be selected from United States citizens—

"(i) who are not borrowers from, shareholders in, or employees or agents of any System institution, who are not affiliated with the Farm Credit Administration, and who are not actively engaged with a bank or investment organization that is a member of the Corporation's selling group for System-wide securities; and

"(ii) who are experienced or knowledgeable in corporate and public finance, agricultural economics, and financial reporting and disclosure.

"(D) The president of the Corporation shall serve as a nonvoting member of the board.

In selecting candidates under subparagraphs (A) and (B), due consideration shall be given to choosing individuals knowledgeable in agricultural economics, public and corporate finance, and financial reporting and disclosure.

"(2) NONVOTING REPRESENTATIVES.—

"(A) ASSISTANCE BOARD.—During the period in which the Assistance Board is in existence, the board of directors of the Assistance Board shall designate one of its directors to serve as a nonvoting representative to the board of directors of the Corporation.

"(B) INSURANCE CORPORATION.—After such period, the board of directors of the Farm Credit System Insurance Corporation may designate one of its directors to serve as a nonvoting representative to the board of directors of the Federal Farm Credit Banks Funding Corporation. 101 STAT. 1607

"(C) MEETINGS.—The persons so designated by the Assistance Board and by the Farm Credit System Insurance Corporation may attend and participate in all deliberations of the board of directors of the Federal Farm Credit Banks Funding Corporation.

"(e) TRANSITIONAL AUTHORITY.—Until a quorum of the board of directors of the Corporation is elected or appointed, the finance committee established under section 4.5 in effect before the date of the enactment of this section, and the fiscal agency established under section 4.9 in effect before such date of enactment, shall continue to operate as if this section had not been enacted.".

(b) CONFORMING REPEALER.—Section 4.5 (12 U.S.C. 2156) is repealed.

SEC. 205. REGULATORY ACCOUNTING PROCEDURES.

(a) DATES FOR PURCHASE AND SALE OF OBLIGATIONS.—Section 4.8(b) (12 U.S.C. 2159(b)) is amended by striking out "1988" each place it appears and inserting in lieu thereof "1992".

(b) ANNUAL REPORTS.—Section 5.19(b) (12 U.S.C. 2253(b)) is amended— 12 USC 2254.

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraphs:

"(2) In accordance with the regulations of the Farm Credit Administration, for the period ending December 31, 1992, System institutions are authorized to use the authorities contained in this section except as otherwise provided in section 6.6.

"(3) Any preferred stock issued under section 6.27 shall be subordinated to, and impaired before, other stock or equities of the institution.".

SEC. 206. FINANCIAL REPORT. 12 USC 2278b note.

During the period beginning September 30, 2001, and ending December 31, 2001, the Farm Credit Administration shall review and evaluate the financial condition of the Farm Credit System and report to the Secretary of the Treasury and the appropriate committees of Congress on—

(1) the general financial condition of each System institution;

(2) the total outstanding principal of debt obligations issued under section 6.26 of the Farm Credit Act of 1971 (as added by section 201 of this Act); and

(3) the ability of each System institution to retire, at par value, preferred stock issued by the institution in accordance with section 6.27 of the Farm Credit Act of 1971 (as added by section 201 of this Act).

SEC. 207. CONFORMING AMENDMENTS.

(a) REPEAL.—The following provisions are hereby repealed:
(1) Section 4.1 (12 U.S.C. 2152).
(2) Section 5.17(a)(8) (12 U.S.C. 2252(a)(8)).
(3) Part D1 of title IV (12 U.S.C. 2216 et seq.).

12 USC 2152 note.

(b) EFFECTIVE DATE.—The repeals made by subsection (a) shall take effect 15 days after the date of the enactment of this Act.

101 STAT. 1608

(c) DEFINITION OF BANK.—Section 4.4 (12 U.S.C. 2155) is amended by striking out subsection (c) and by redesignating subsection (d) as subsection (c).

(d) REDESIGNATION.—Section 5.35(3) (12 U.S.C. 2271(3)) is amended by striking out "Capital Corporation" and inserting in lieu thereof "Financial Assistance Corporation.".

TITLE III—CAPITALIZATION OF SYSTEM INSTITUTIONS

12 USC 2154 note.

SEC. 301. CAPITALIZATION OF SYSTEM INSTITUTIONS.

(a) MINIMUM CAPITAL ADEQUACY STANDARDS.—

(1) IN GENERAL.—

Regulations.

(A) ESTABLISHMENT.—Within 120 days after the date of the enactment of this Act, the Farm Credit Administration shall issue regulations under section 4.3(a) of the Farm Credit Act of 1971 (12 U.S.C. 2154(c)) that establish minimum permanent capital adequacy standards for Farm Credit System institutions.

(B) BASIS FOR ESTABLISHMENT.—The standards established under subparagraph (A) shall be based on the financial statements of the institution prepared in accordance with generally accepted accounting principles.

(C) RATIO OF CAPITAL TO ASSETS.—The standards established under subparagraph (A) shall specify fixed percentages representing the ratio of permanent capital of the institution to the assets of the institution, taking into consideration relative risk factors as determined by the Farm Credit Administration.

(D) PHASE-IN PERIOD.—The standards established under subparagraph (A) shall be phased in during the 5-year period beginning on the date of the enactment of this Act.

(2) EMERGENCY POWER NOT AVAILABLE.—The Farm Credit Administration shall not invoke the emergency provisions of section 5.17(b)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2251(b)(2)) with respect to the issuance of the proposed regulations required under paragraph (1)(A).

(3) PROHIBITIONS DURING TRANSITION PERIOD.—During the 5-year period specified in paragraph (1)(C), the Farm Credit Administration shall not initiate any receivership, conservatorship, liquidation, or enforcement action against any System institution certified to issue preferred stock under section 6.27 of the Farm Credit Act of 1971 (as added by section 201 of this Act), solely because of the failure of such institution to meet minimum permanent capital adequacy standards unless such action is recommended or concurred in by the Farm Credit System Assistance Board established under section 6.0 of such Act (as added by section 201 of this Act).

(4) PERMANENT CAPITAL.—For purposes of this subsection, the term "permanent capital" has the same meaning given that term in section 4.3A(a)(1) of the Farm Credit Act of 1971.

(b) CAPITALIZATION BYLAWS.—Title IV (12 U.S.C. 2151 et seq.) is amended by inserting after section 4.3 the following new section:

"SEC. 4.3A. CAPITALIZATION OF SYSTEM INSTITUTIONS. 12 USC 2154a.

"(a) DEFINITIONS.—As used in this section: 101 STAT. 1609

"(1) PERMANENT CAPITAL.—The term 'permanent capital' means current year retained earnings, allocated and unallocated earnings, all surplus (less allowances for losses), and stock issued by a System institution, except stock that—

"(A) may be retired by the holder thereof on repayment of the holder's loan, or otherwise at the option or request of the holder; or

"(B) is protected under section 4.9B or is otherwise not at risk.

"(2) STOCK.—The term 'stock' means voting and nonvoting stock (including preferred stock), equivalent contributions to a guaranty fund, participation certificates, allocated equities, and other forms and types of equities.

"(b) ADOPTION OF BYLAWS.—Subject to approval by shareholders under subsection (c)(2), each bank and association shall adopt bylaws, developed by its board of directors, that provide for the capitalization of the institution in accordance with subsection (c)(1).

"(c) REQUIREMENTS OF BYLAWS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, the bylaws adopted under subsection (b)—

"(A) shall provide for such classes, par value, and amounts of the stock of the institution, the manner in which such stock shall be issued, transferred, and retired, and the payment of dividends and patronage refunds, as determined appropriate by the Board of Directors, subject to this section;

"(B) may provide for the charging of loan origination fees as determined appropriate by the Board of Directors;

"(C) shall enable the institution to meet the capital adequacy standards established under the regulations issued under section 4.3(a);

"(D) shall provide for the issuance of voting stock, which may only be held by—

"(i) borrowers who are farmers, ranchers, or producers, or harvesters of aquatic products, and cooperative associations eligible to borrow from System institutions under this Act;

"(ii) in the case of a Central Bank for Cooperatives, other banks for cooperatives; and

"(iii) in the case of banks other than banks for cooperatives, System associations;

"(E) shall require that—

"(i) as a condition of borrowing from or through the institution, any borrower who is entitled to hold voting stock or participation certificates shall, at the time a loan is made, acquire voting stock or participation certificates in an amount not less than $1,000 or 2 percent of the amount of the loan, whichever is less; and

"(ii) within 2 years after the loan of a borrower is repaid in full, any voting stock held by the borrower be converted to nonvoting stock; 101 STAT. 1610

"(F) may provide that persons who are not borrowers from the institution may hold nonvoting stock of the institution;

"(G) shall require that any holder of stock issued before the adoption of bylaws under this section exchange a portion of such stock for new voting stock;

"(H) do not need to provide for maximum or minimum standards of borrower stock ownership based on a percentage of the loan of the borrower;

"(I) shall permit the retirement of stock at the discretion of the institution if the institution meets the capital ade-

quacy standards established under standards issued under section 4.3(a); and

"(J) shall permit stock to be transferable.

"(2) EFFECTIVE DATE.—The bylaws adopted by the board of directors of a System institution under subsection (b) shall take effect only on approval of a majority of the stockholders of such institution present and voting, or voting by written proxy, at a duly authorized stockholders' meeting.

"(d) REDUCTION OF CAPITAL.—

"(1) GENERAL RULE.—Except as provided in paragraph (2) and in section 4.9A, the board of directors of a System institution may not reduce the permanent capital of the institution through the payment of patronage refunds or dividends, or the retirement of stock or allocated equities if, after or due to such action, the permanent capital of the institution would thereafter fail to meet the minimum capital adequacy standards established under section 4.3(a).

Taxes.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to the payment of noncash patronage refunds by any institution exempt from Federal income tax if the entire refund paid qualifies as permanent capital. Notwithstanding paragraph (1), any System institution subject to Federal income tax may pay patronage refunds partially in cash as long as the cash portion of the refund is the minimum amount required to qualify the refund as a deductible patronage distribution for Federal income tax purposes and the remaining portion of the refund paid qualifies as permanent capital.

"(e) COMPLIANCE.—The Farm Credit Administration may issue a directive that requires compliance with subsection (d), to the board of directors of any System institution that fails to comply therewith.

"(f) CONSTRUCTION.—This section shall not be construed to affect the provisions of this Act that confer on System institutions a lien on borrower stock or other equities and the privilege to retire or cancel such stock or other equities for application against the indebtedness on a defaulted or restructured loan.

"(g) CONTROLLING AUTHORITY.—To the extent that any provision of this section is inconsistent with any other provision of this Act (other than section 4.9A), the provision of this section shall control.".

SEC. 302. INSURANCE OF OBLIGATIONS OF FARM CREDIT SYSTEM.

Title V (12 U.S.C. 2221 et seq.) is amended by adding at the end thereof the following new part:

101 STAT. 1611

"PART E—FARM CREDIT SYSTEM INSURANCE CORPORATION

12 USC 2277a.

"SEC. 5.51. DEFINITIONS.

"As used in this part:

"(1) BOARD OF DIRECTORS.—The term 'Board of Directors' means the Board of Directors of the Corporation.

"(2) CORPORATION.—The term 'Corporation' means the Farm Credit System Insurance Corporation established in section 5.52.

"(3) INSURED OBLIGATION.—The term 'insured obligation' means any note, bond, debenture, or other obligation issued under subsection (c) or (d) of section 4.2—

"(A) on or before the date of the enactment of this part, on behalf of any System bank; and

"(B) after such date, on behalf of any insured System bank.

"(4) INSURED SYSTEM BANK.—The term 'insured System bank' means any System bank whose participation in notes, bonds, debentures, and other obligations issued under subsection (c) or (d) of section 4.2 is insured under this part.

"(5) RECEIVER.—The term 'receiver' means a receiver or conservator appointed by the Farm Credit Administration to liquidate a System institution.

"(6) STATE.—The term 'State' means any of the 50 States, the District of Columbia, any Territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands.

"SEC. 5.52. ESTABLISHMENT OF FARM CREDIT SYSTEM INSURANCE CORPORATION. 12 USC 2277a-1.

"There is hereby established the Farm Credit System Insurance Corporation which shall insure, in accordance with this part, the timely payment of principal and interest on notes, bonds, debentures, and other obligations issued under subsection (c) or (d) of section 4.2 on behalf of one or more System banks all of which are entitled to the benefits of insurance under this part.

"SEC. 5.53. BOARD OF DIRECTORS. 12 USC 2277a-2.

"(a) ESTABLISHMENT.—The Corporation shall be managed by a Board of Directors that shall consist of the members of the Farm Credit Administration Board.

"(b) CHAIRMAN.—The Board of Directors shall be chaired by any Board member other than the Chairman of the Farm Credit Administration Board.

"SEC. 5.54. COMMENCEMENT OF INSURANCE. 12 USC 2277a-3.

"Effective beginning on January 1, 1989, or 12 months after the date of the enactment of this part, whichever is later, each System bank shall be an insured System bank and shall be subject to this part. Each System bank that is authorized to commence or resume operations under a title of this Act shall be an insured System bank from the time of such authorization. A bank resulting from the merger or consolidation of insured System banks shall be an insured System bank.

101 STAT. 1612

"SEC. 5.55. PREMIUMS. 12 USC 2277a-4.

"(a) AMOUNT IN FUND NOT EXCEEDING SECURE BASE AMOUNT.—Until the aggregate of amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the annual premium due from any insured System bank for any calendar year shall be equal to the sum of—

"(1) the annual average principal outstanding for such year on loans made by the bank that are in accrual status, multiplied by 0.0015; and

"(2) the annual average principal outstanding for such year on loans made by the bank that are in nonaccrual status, multiplied by 0.0025.

"(b) AMOUNT IN FUND EXCEEDING SECURE BASE AMOUNT.—At any time the aggregate of amounts in the Insurance Fund exceeds the secure base amount, the Corporation shall reduce the annual premium due from each insured System bank for the following calendar year by a percentage determined by the Corporation so that the aggregate of the premiums payable by all System banks is sufficient to ensure that the aggregate of amounts in the Insurance Fund after such premiums are paid is not less than the secure base amount at such time.

"(c) SECURE BASE AMOUNT.—For purposes of this part, the term 'secure base amount' means, with respect to any point in time, 2 percent of the aggregate outstanding insured obligations of all insured System banks at such time, or such other percentage of the aggregate amount as the Corporation in its sole discretion determines is actuarially sound to maintain in the Insurance Fund taking into account the risk of insuring outstanding insured obligations.

"(d) DETERMINATION OF PRINCIPAL OUTSTANDING.—For the purpose of subsection (a), the principal outstanding on all loans made by

a Federal intermediate credit bank shall be determined based on all loans made—

"(1) by the production credit associations in the district in which such bank is located;

"(2) by any bank, company, institution, corporation, union, or association described in section 2.3(a)(2), that is able to make such loans because such entity is receiving, or has received, funds provided through the Federal intermediate credit bank; and

"(3) by such Federal intermediate credit bank (other than loans made to any party described in paragraph (1) or (2)).

12 USC 2277a-5.

"SEC. 5.56. CERTIFICATION OF PREMIUMS.

"(a) FILING CERTIFIED STATEMENT.—Annually, on a date to be determined in the sole discretion of the Board of Directors, each insured System bank that became insured before the beginning of such year shall file with the Corporation a certified statement showing the annual average principal outstanding on loans made by the bank that are in accrual status, the annual average principal outstanding on loans that are in nonaccrual status, and the amount of the premium due the Corporation from the bank for such year.

"(b) CONTENTS AND FORM OF STATEMENT.—The certified statement required to be filed with the Corporation under subsection (a) shall be in such form and set forth such supporting information as the Board of Directors shall prescribe, and shall be certified by the president of the bank or any other officer designated by its board of directors that to the best of the person's knowledge and belief the statement is true, correct, complete, and has been prepared in accordance with this part and all regulations issued thereunder.

101 STAT. 1613

"(c) INITIAL PREMIUM PAYMENT.—Each System bank shall pay to the Corporation the amount of the initial premium it is required to certify under subsection (a) as soon as practicable after January 1, 1990, based on the application of section 5.55 to the accruing loan volume of the bank for calendar year 1989.

"(d) SUBSEQUENT PREMIUM PAYMENTS.—The premium payments required from insured System banks under subsection (a) shall be made not less frequently than annually in such manner and at such time or times as the Board of Directors shall prescribe, except that the amount of the premium shall be established not later than 60 days after filing the certified statement setting forth the amount of the premium.

"(e) REGULATIONS.—The Board of Directors shall prescribe all rules and regulations necessary for the enforcement of this section. The Board of Directors may limit the retroactive effect, if any, of any of its rules or regulations.

12 USC 2277a-6.

"SEC. 5.57. OVERPAYMENT AND UNDERPAYMENT OF PREMIUMS; REMEDIES.

"(a) OVERPAYMENTS.—The Corporation may refund to any insured System bank any premium payment made by the bank exceeding the amount due the Corporation.

"(b) UNDERPAYMENTS.—

"(1) RECOVERY.—The Corporation, in a suit brought at law or in equity in any court of competent jurisdiction, may recover from any insured System bank the amount of any unpaid premium lawfully payable by the bank to the Corporation, whether or not the bank has made any report of condition required under section 5.55 or filed any certified statement under section 5.56, and whether or not suit has been brought to compel the bank to make any such report or file any such statement.

"(2) LIMITATION.—Any action or proceeding for the recovery of any premium due the Corporation under paragraph (1), or for the recovery of any amount paid to the Corporation exceeding the amount due the Corporation, shall be brought within 5 years after the right accrued for which the claim is made. If an

insured System bank has made or filed with the Corporation a false or fraudulent certified statement with the intent to evade, in whole or in part, the payment of a premium, the claim shall not be deemed to have accrued until the Corporation discovers that the certified statement is false or fraudulent.

"(c) FAILURE TO FILE STATEMENT OR PAY PREMIUM.—

"(1) FORFEITURE OF RIGHTS.—If any insured System bank fails to file any certified statement required to be filed by such bank under section 5.56 or fails to pay any premium required to be paid by such bank under any provision of this part, and if the bank does not correct such failure within 30 days after the Corporation gives written notice to an officer of the bank, citing this subsection and stating that the bank has failed to so file or pay as required by law, all the rights, privileges, and franchises of the bank granted to it under this Act shall be thereby forfeited.

101 STAT. 1614

"(2) ENFORCEMENT.—The Corporation may bring an action to enforce this subsection against any such bank in any court of competent jurisdiction for the judicial district in which the bank is located.

"(3) LIABILITY OF DIRECTORS.—Every director who participated in or assented to a failure (described in paragraph (1)) shall be held personally liable for all consequential damages.

"(d) EFFECT ON OTHER REMEDIES.—The remedies provided in subsections (b) and (c) shall not be construed as limiting any other remedies against any insured System bank, but shall be in addition thereto.

"SEC. 5.58. GENERAL CORPORATE POWERS.

12 USC 2277a-7.

"On the date of the enactment of this part, the Corporation shall become a body corporate and as such shall have the following powers:

"(1) SEAL.—The Corporation may adopt and use a corporate seal.

"(2) SUCCESSION.—The Corporation may have succession until dissolved by an Act of Congress.

"(3) CONTRACTS.—The Corporation may make contracts.

"(4) LEGAL ACTIONS.—

"(A) IN GENERAL.—The Corporation may sue and be sued, complain and defend, in any court of law or equity, State or Federal.

"(B) JURISDICTION.—All suits of a civil nature at common law or in equity to which the Corporation shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount in controversy, and the Corporation, without bond or security, may remove any such action, suit, or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal then in effect.

"(C) ATTACHMENT AND EXECUTION.—No attachment or execution may be issued against the Corporation or its property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court.

"(D) AGENT FOR SERVICE OF PROCESS.—The Board of Directors shall designate an agent on whom service of process may be made in any State or jurisdiction in which any insured System bank is located.

"(5) OFFICERS AND EMPLOYEES.—

"(A) IN GENERAL.—The Corporation may appoint by its Board of Directors such officers and employees as are not otherwise provided for in this part, to define their duties,

fix their compensation, and require bonds of them and fix the penalty thereof, and to dismiss at pleasure such officers or employees.

"(B) EMPLOYEES OF THE UNITED STATES.—Nothing in this or any other Act shall be construed to prevent the appointment and compensation, as an officer or employee of the Corporation, of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof.

101 STAT. 1615

"(6) BYLAWS.—The Corporation may prescribe, by its Board of Directors, bylaws not inconsistent with law, regulating the manner in which its general business may be conducted, and the privileges granted to it by law may be exercised and enjoyed.

"(7) INCIDENTAL POWERS.—The Corporation may exercise by its Board of Directors, or duly authorized officers or agents, all powers specifically granted by the provisions of this part, and such incidental powers as shall be necessary to carry out the powers so granted.

Reports.

"(8) INFORMATION.—The Corporation may, when necessary, make examinations of, and require information and reports from, System institutions, as provided in this part.

"(9) RECEIVER.—The Corporation may act as receiver.

"(10) RULES AND REGULATIONS.—The Corporation may prescribe by its Board of Directors such rules and regulations as it considers necessary to carry out this part (except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency).

12 USC 2277a–8.

"SEC. 5.59. CONDUCT OF CORPORATE AFFAIRS; EXAMINATION OF INSURED SYSTEM BANKS.

"(a) CONDUCT OF CORPORATE AFFAIRS.—

"(1) FAIR ADMINISTRATION.—The Board of Directors shall administer the affairs of the Corporation fairly and impartially and without discrimination.

"(2) OBLIGATIONS AND EXPENSES.—The Board of Directors shall determine and prescribe the manner in which the obligations of the Corporation may be incurred and the expenses of the Corporation may be allowed and paid.

"(3) USE OF MAILS.—The Corporation may use the United States mails in the same manner and under the same conditions as the executive departments of the Federal Government.

"(4) USE OF INFORMATION.—The Corporation, with the consent of any board, commission, independent establishment, or executive department of the Federal Government, including any field service thereof, may avail itself of the use of information, services, and facilities thereof in carrying out this part.

"(b) EXAMINATION OF INSURED SYSTEM BANKS.—

"(1) APPOINTMENT OF EXAMINERS.—The Board of Directors may appoint examiners who may, on behalf of the Corporation, examine any insured System bank, any production credit association, and any System institution in receivership, if in the judgment of the Board of Directors an examination of the institution is necessary.

"(2) POWERS AND REPORT.—Each examiner may make a thorough examination of all affairs of the institution, and shall make a full and detailed report of the condition of the institution to the Corporation.

"(3) APPOINTMENT OF CLAIM AGENTS.—The Board of Directors, in like manner, shall appoint claim agents who may investigate and examine all claims for insured obligations.

"(c) OATH, AFFIRMATIONS, AND TESTIMONY.—In connection with examinations under this section, the Corporation or its designated

representatives may administer oaths and affirmations, and may examine, take, and preserve testimony under oath, as to any matter with respect to the affairs of any such institution. 101 STAT. 1616

"(d) COOPERATION WITH FCA EXAMINERS.—The examiners appointed by the Board of Directors shall cooperate to the maximum extent possible with examiners of the Farm Credit Administration to minimize duplication of effort and minimize costs.

"SEC. 5.60. INSURANCE FUND. 12 USC 2277a-9.

"(a) ESTABLISHMENT.—There is hereby established a Farm Credit Insurance Fund (hereinafter referred to in this section as the 'Insurance Fund') for insuring the timely payment of principal and interest on insured obligations. The assets in the Fund shall be held by the Corporation for the uses and purposes of the Corporation.

"(b) AMOUNTS IN FUND.—

"(1) REVOLVING FUND.—All amounts in the revolving fund established by section 4.0 (in effect immediately before the date of the enactment of this part) shall be transferred into the Farm Credit Insurance Fund on January 1, 1989, or 12 months after the date of the enactment of this part, whichever is later, except that the obligations to, and rights of, any person in such revolving fund arising out of any event or transaction before the date of the enactment of this part shall remain unimpaired. Effective date.

"(2) DEPOSIT OF PREMIUMS.—Beginning 5 years after the date of the enactment of this part, the Corporation shall deposit in the Insurance Fund all premium payments received by the Corporation under this part.

"(c) USES OF FUND.—

"(1) MANDATORY USE.—Beginning 5 years after the date of the enactment of this part, the Corporation shall expend amounts in the Insurance Fund to the extent necessary to insure the timely payment of interest and principal on insured obligations.

"(2) OTHER MANDATORY USES.—Beginning 5 years after the date of enactment of this part, the Corporation shall use amounts in the Insurance Fund to—

"(A) satisfy System institution defaults through the purchase of preferred stock or other payments as provided for in section 6.26(d)(3); and

"(B) ensure the retirement of borrower stock at par value and participation certificates or other similar equities at face value as provided for under section 4.9A(c)(2).

"(3) PERMISSIVE USES.—The Corporation may expend amounts in the Insurance Fund to carry out section 5.61 and to cover the operating costs of the Corporation.

"(4) CORPORATE PAYMENT OR REFUNDS.—The Corporation shall make all payments and refunds required to be made by the Corporation under this part from amounts in the Insurance Fund.

"SEC. 5.61. POWERS OF CORPORATION WITH RESPECT TO TROUBLED INSURED SYSTEM BANKS. 12 USC 2277a-10.

"(a) AUTHORITY TO PROVIDE ASSISTANCE.—

"(1) IN GENERAL.—The Corporation, in its sole discretion and on such terms and conditions as the Board of Directors may prescribe, may make loans to, purchase the assets or securities of, assume the liabilities of, or make contributions to, any insured System bank if such action is taken— 101 STAT. 1617

"(A) to prevent the placing of the bank in receivership;

"(B) to restore the bank to normal operation; or

"(C) to reduce the risk to the Corporation posed by the bank when severe financial conditions threaten the stability of a significant number of insured System banks or of insured System banks possessing significant financial resources.

"(2) ENUMERATED POWERS.—

"(A) FACILITATION OF MERGERS OR CONSOLIDATION.—To facilitate a merger or consolidation of a qualifying insured

System bank, the sale of assets of such insured System bank to another insured System bank, the assumption of such insured System bank's liabilities by such other insured System bank, or the acquisition of the stock of such insured System bank by such other insured System bank, the Corporation, in its sole discretion and on such terms and conditions as the Board of Directors may prescribe, may—

"(i) purchase any such assets or assume any such liabilities;

"(ii) make loans or contributions to, or purchase debt securities of, such other insured System bank;

"(iii) guarantee such other insured System bank against loss by reason of such other insured System bank's merging or consolidating with, or assuming the liabilities and purchasing the assets of, such insured System bank; or

"(iv) take any combination of the actions referred to in the preceding clauses.

"(B) QUALIFYING INSURED SYSTEM BANK.—For purposes of subparagraph (A), the term 'qualifying insured System bank' means any insured System bank that—

"(i) is in receivership;

"(ii) is, in the judgment of the Board of Directors, in danger of being placed in receivership; or

"(iii) is, in the sole discretion of the Corporation, an insured System bank that, when severe financial conditions exist that threaten the stability of a significant number of insured System banks or of insured System banks possessing significant financial resources, requires assistance under subparagraph (A) to lessen the risk to the Corporation posed by such insured System bank under such threat of instability.

"(3) LIMITATION.—

"(A) COST OF LIQUIDATION.—Assistance shall not be provided to an insured System bank under this subsection if the amount of such assistance exceeds an amount determined by the Corporation to be the cost of liquidating the bank (including paying the insured obligations issued on behalf of the bank). This subparagraph shall not apply to the provision of assistance to a bank if the Corporation determines that the continued operation of the bank is essential to provide adequate agricultural credit services in the area of operations of the bank.

"(B) PURCHASE OF STOCK.—The Corporation may not use its authority under this subsection to purchase any stock of an insured System bank. The preceding sentence shall not be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect the financial interests of the Corporation.

101 STAT. 1618

"(4) SUBORDINATION.—Any assistance provided under this subsection may be in subordination to the rights of owners of obligations and other creditors.

"(5) REPORTS.—The Corporation, in its annual report to Congress, shall report the total amount saved, or it estimates to be saved, by the Corporation exercising the authority provided to the Corporation in this subsection.

"(b) AUTHORITY TO PLEDGE OR SELL ASSETS.—The Corporation, in its discretion, may make loans on the security of, or may purchase, and liquidate or sell, any part of the assets of, any insured System bank that is placed in receivership because of the inability of the bank to pay principal or interest on any of its notes, bonds, debentures, or other obligations in a timely manne..

"(c) SUBROGATION.—

"(1) IN GENERAL.—On the payment to an owner of an insured obligation issued on behalf of an insured System bank in re-

ceivership, the Corporation shall be subrogated to all rights of the owner against the bank to the extent of the payment.

"(2) RECEIPT OF DIVIDENDS.—Subrogation under paragraph (1) shall include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of the bank as would have been payable to the owner on a claim for the insured obligation. Claims.

"(d) RIGHT TO ASSETS.—Any agreement that shall diminish or defeat the right, title, or interest of the Corporation in any asset acquired by such Corporation under this section, either as security for a loan or by purchase, shall not be valid against the Corporation unless the agreement—

"(1) is in writing;

"(2) is executed by the bank and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the bank;

"(3) has been approved by the board of directors of the bank or its loan committee, which approval shall be reflected in the minutes of the board or committee; and

"(4) has been, continuously, from the time of its execution, an official record of the bank.

"(e) INSURED SYSTEM BANK.—As used in this section, the terms 'insured System bank' and 'bank' include each production credit association.

"(f) EFFECTIVE DATE.—The Corporation shall not exercise any authority under this section during the 5-year period beginning on the date of the enactment of this part.

"SEC. 5.62. INVESTMENT OF FUNDS. 12 USC 2277a-11.

"Money of the Corporation not otherwise employed shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

"SEC. 5.63. EXEMPTION FROM TAXATION. 12 USC 2277a-12. State and local governments.

"Notwithstanding any other provision of law, the Corporation, including its franchise, and its capital, reserves, surplus, and income, shall be exempt from all taxation imposed by the United States, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, county, municipal, and local taxation to the same extent according to its value as other real property is taxed.

101 STAT. 1619

"SEC. 5.64. REPORTS. 12 USC 2277a-13.

"(a) IN GENERAL.—The Corporation annually shall prepare and submit to Congress a report of the operations of the Corporation, as soon as practicable after the first day of January in each calendar year.

"(b) CONTENTS.—Reports submitted under subsection (a) shall include information concerning the—

"(1) aggregate amount in the Insurance Fund at the close of the preceding calendar year;

"(2) projections of the costs to be incurred by the Corporation during the calendar year; and

"(3) estimates of the aggregate amount to be collected as premiums during the calendar year.

"SEC. 5.65. PROHIBITIONS. 12 USC 2277a-14.

"(a) CORPORATE NAME.—

"(1) USE OF CORPORATE NAME.—It shall be unlawful for any person or entity to use the words 'Farm Credit System Insurance Corporation' or any combination of such words that would have the effect of leading the public to believe that there is any connection between such person or entity and the Corporation, by virtue of the name under which such person or entity does business.

"(2) FALSE REPRESENTATION.—

"(A) BY OUTSIDE PERSON OR ENTITIES.—It shall be unlawful for any person or entity to falsely represent by any device, that the notes, bonds, debentures, or other obligations of the person or entity are insured or in any way guaranteed by the Corporation.

"(B) SYSTEM BANKS.—It shall be unlawful for any insured System bank or person that markets insured obligations to falsely represent the extent to which or the manner in which such obligations are insured by the Corporation.

"(3) PENALTY.—Any person or entity that willfully violates any provision of this subsection shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.

"(b) PAYMENTS OR DISTRIBUTIONS WHILE IN DEFAULT.—

"(1) IN GENERAL.—It shall be unlawful for any insured System bank to pay any dividends on bank stock or participation certificates or interest on the capital notes or debentures of such bank (if such interest is required to be paid only out of net profits) or distribute any of the capital assets of such bank while the bank remains in default in the payment of any premium due to the Corporation.

"(2) LIABILITY OF DIRECTORS.—Each director or officer of any insured System bank who willfully participates in the declaration or payment of any dividend or interest or in any distribution in violation of this subsection shall be fined not more than $1,000, imprisoned not more than 1 year, or both.

"(3) APPLICABILITY.—This subsection shall not apply to any default that is due to a dispute between the insured System bank and the Corporation over the amount of such premium if such bank deposits security satisfactory to the Corporation for payment on final determination of the issue.

101 STAT. 1620

"(c) FAILURE TO FILE STATEMENT OR PAY PREMIUM.—

"(1) IN GENERAL.—Any insured System bank that willfully fails or refuses to file any certified statement or pay any premium required under this part shall be subject to a penalty of not more than $100 for each day that such violations continue, which penalty the Corporation may recover for its use.

"(2) APPLICABILITY.—This subsection shall not apply to conduct with respect to any default that is due to a dispute between the insured System bank and the Corporation over the amount of such premium if such bank deposits security satisfactory to the Corporation for payment on final determination of the issue.

"(d) EMPLOYMENT OF PERSONS CONVICTED OF CRIMINAL OFFENSES.—

"(1) IN GENERAL.—Except with the prior written consent of the Farm Credit Administration, it shall be unlawful for any person convicted of any criminal offense involving dishonesty or a breach of trust to serve as a director, officer, or employee of any insured System bank.

"(2) PENALTY.—For each willful violation of paragraph (1), the bank involved shall be subject to a penalty of not more than $100 for each day during which the violation continues, which the Corporation may recover for its use.".

SEC. 303. JOINT AND SEVERAL LIABILITY OF BANKS.

(a) CLARIFICATION OF JOINT AND SEVERAL LIABILITY.—Subsection (a) of section 4.4 (12 U.S.C. 2155(a)) is amended to read as follows:

"(a)(1) Each bank of the System shall be fully liable on notes, bonds, debentures, or other obligations issued by it individually, and shall be liable for the interest payments on long-term notes, bonds, debentures, or other obligations issued by other banks operating under the same title of this Act.

"(2)(A) Each bank shall also be primarily liable for the portion of any issue of consolidated or System-wide obligations made on its behalf and be jointly and severally liable for the payment of any

additional sums as called upon by the Farm Credit Administration in order to make payments of interest or principal which any bank primarily liable therefor shall be unable to make.

"(B) Such calls first shall be made on all nondefaulting banks in proportion to each such bank's proportionate share of the aggregate available collateral held by all such banks.

"(C) For purposes of this paragraph, the term 'available collateral' means the amount (determined at the close of the last calendar quarter ending before such call) by which a bank's collateral as described in section 4.3 exceeds the collateral required to support the bank's outstanding notes, bonds, debentures, and other similar obligations.

"(D) If the Farm Credit Administration makes any such call and the available collateral of all such banks does not fully satisfy the liability necessitating such calls, such calls shall be made on all nondefaulting banks in proportion to each such bank's remaining assets.

"(E) Any System bank that, pursuant to a call by the Farm Credit Administration, makes a payment of principal or interest to the holder of any consolidated or System-wide obligation issued on behalf of another System bank shall be subrogated to all rights of the holder against such other bank to the extent of such payment. 101 STAT. 1621

"(F) On making such a call with respect to obligations issued on behalf of a System bank, the Farm Credit Administration shall appoint a receiver for the bank, which shall expeditiously liquidate or otherwise wind up the affairs of the bank.".

(b) INSURANCE FUND CALLED ON BEFORE INVOKING JOINT AND SEVERAL LIABILITY.—Section 4.4 (12 U.S.C. 2155) is amended by adding at the end thereof the following new subsection:

"(e) Beginning 5 years after the date of the enactment of this subsection, the Farm Credit Administration shall not call on any System institution to satisfy the liability of the institution on any joint, consolidated, or System-wide obligation participated in by the institution or with respect to which the institution is primarily, or jointly and severally, liable, before the Farm Credit Insurance Fund is exhausted, even if the Fund is only able to make a partial payment because of insufficient amounts in the Fund.".

SEC. 304. ENHANCEMENT OF CAPITAL ADEQUACY OF BANKS.

Subsection (c) of section 4.3 (12 U.S.C. 2154(c)) is amended to read as follows:

"(c) Each bank shall have on hand at the time of issuance of any note, bond, debenture, or other similar obligation and at all times thereafter maintain, free from any lien or other pledge, notes and other obligations representing loans made under this Act or real or personal property acquired in connection with loans made under this Act, obligations of the United States or any agency thereof direct or fully guaranteed, other bank assets (including marketable securities) approved by the Farm Credit Administration, or cash, in an aggregate value equal to the total amount of notes, bonds, debentures, or other similar obligations outstanding for which the bank is primarily liable.".

SEC. 305. FEDERAL INTERMEDIATE CREDIT BANK ASSESSMENT POWER.

Section 2.5 (12 U.S.C. 2076) is amended—

(1) in the title, by inserting "; AUTHORITY TO PASS ALONG COST OF INSURANCE PREMIUMS" before the period;

(2) by inserting "(a)" before "The Federal"; and

(3) by adding at the end thereof the following new subsection:

"(b) Each Federal intermediate credit bank may assess each production credit association and other financing institution described in section 2.3(a)(2) in the district in which the bank is located to cover the costs of making premium payments under part E of title V. The assessment on any such association or other financing institution for any calendar year shall not exceed the sum of—

"(1) the annual average principal outstanding for such year on loans made by the association, or on loans made by the other financing institution and discounted with the Federal intermediate credit bank, that are in accrual status, multiplied by 0.0015; and

"(2) the annual average principal outstanding for such year on loans made by the association, or on loans made by the other financing institution and discounted with the Federal intermediate credit bank, that are in nonaccrual status, multiplied by 0.0025.".

101 STAT. 1622

SEC. 306. CONSERVATORS AND RECEIVERS.

Section 4.12(b) (12 U.S.C. 2183(b)) is amended—

(1) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon;

(2) by inserting after paragraph (5) the following new paragraph: "(6) the institution is unable to timely pay principal or interest on any insured obligation (as defined in section 5.51(3)) issued by the institution."; and

(3) in the second sentence by inserting before the period at the end thereof the following: ", and such receiver or conservator, after the 5-year period beginning on the date of the enactment of the Agricultural Credit Act of 1987, shall be the Farm Credit System Insurance Corporation".

TITLE IV—RESTRUCTURING THE FARM CREDIT SYSTEM

Subtitle A—Creation of Farm Credit Banks

SEC. 401. FARM CREDIT BANKS AND ASSOCIATIONS CHARTERS.

Effective date. 12 USC 2011 note.

Effective 6 months after the date of enactment of this Act, titles I and II of the Farm Credit Act of 1971 (12 U.S.C. 2000 et seq.) are amended to read as follows:

"TITLE I—FARM CREDIT BANKS

12 USC 2011.

"SEC. 1.3. ESTABLISHMENT, CHARTERS, TITLES, BRANCHES.

"(a) ESTABLISHMENT.—The banks established pursuant to the merger of each District Federal Intermediate Credit Bank and Federal Land Bank (hereinafter referred to in this title as 'Farm Credit Banks') shall be Federally chartered instrumentalities of the United States.

"(b) CHARTERS.—The charters or organization certificates of Farm Credit Banks may be modified from time to time by the Farm Credit Administration Board, not inconsistent with the provisions of this title, as may be necessary or expedient to implement this Act.

"(c) TITLE.—Each Farm Credit Bank may include in its title the name of the city in which it is located or other geographical designation.

"(d) BRANCHES.—Each Farm Credit Bank may establish such branches or other offices as may be appropriate for the effective operation of its business.

12 USC 2012.

"SEC. 1.4. BOARD OF DIRECTORS.

"Each Farm Credit Bank shall elect from its voting stockholders a board of directors of such number, for such term, in such manner, and with such qualifications, as may be required in its bylaws, except that, at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

"SEC. 1.5. GENERAL CORPORATE POWERS.

12 USC 2013.

"Each Farm Credit Bank shall be a body corporate and, subject to regulation by the Farm Credit Administration, shall have power to— 101 STAT. 1623

"(1) adopt and use a corporate seal;

"(2) have succession until dissolved under the provisions of this Act or other Act of Congress;

"(3) make contracts;

Contracts.

"(4) sue and be sued;

"(5) acquire, hold, dispose, and otherwise exercise all the usual incidents of ownership of real and personal property necessary or convenient to its business;

"(6) make, participate in, and discount loans, make commitments for credit, accept advance payments, and provide services as authorized in this Act, and charge fees for such;

"(7) operate under the direction of its board of directors;

"(8) provide by its board of directors for a president, one or more vice presidents, a secretary, a treasurer, and provide for such other officers, employees, and agents as may be necessary, as provided in this Act, define their duties, and require surety bonds or make other provision against losses occasioned by employees;

"(9) prescribe by its board of directors—

"(A) the bylaws of such bank that shall not be inconsistent with law, providing for the classes of the stock of the bank and the manner in which such stock shall be issued, transferred, and retired;

"(B) the officers, employees, and agents of the bank as provided for;

"(C) the property of the bank acquired, held, and transferred;

"(D) the loans and discounts made by the bank;

"(E) the general business conducted by the bank; and

"(F) the privileges granted to the bank by law exercised and enjoyed;

"(10) borrow money and issue notes, bonds, debentures, or other obligations individually, or in concert with one or more other banks of the System, of such character, terms, conditions, and rates of interest as may be determined as provided for in this Act;

"(11) purchase nonvoting stock in, or pay in surplus to, and accept deposits or securities of funds from associations in its district, and pay interest on such funds;

"(12) participate with—

"(A) one or more other Farm Credit Banks in loans under this title on such terms as may be agreed on among such banks;

"(B) participate with one or more other Farm Credit System institutions in loans made under this title or other titles on the basis prescribed in section 4.18; and

"(C) participate with lenders that are not Farm Credit System institutions in loans that the bank is authorized to make under this title;

"(13) approve the salary scale of the officers and employees of the associations in its district, and the appointment and compensation of the chief executive officer thereof, and supervise 101 STAT. 1624 the exercise by such associations of the functions vested in or delegated to them;

"(14) deposit the securities and current funds of the bank with any member bank of the Federal Reserve System or any insured State nonmember bank as defined in section 3 of the Federal Deposit Insurance Act and pay fees and receive interest on such as may be agreed, and when designated for that purpose by the Secretary of the Treasury, such bank—

"(A) shall be a depository of public money, except receipts

from customs, under such regulations as may be prescribed by the Secretary;

"(B) may be employed as a fiscal agent of the Government; and

"(C) shall perform all such reasonable duties as a depository of public money or financial agent of the Government as may be required of such bank;

except that no Government funds deposited under the provisions of this paragraph shall be invested in loans or bonds or other obligations of the bank;

"(15) buy and sell obligations of, or insured by, the United States or any agency thereof, or securities backed by the full faith and credit of any such agency, and make other investments as may be authorized under regulations issued by the Farm Credit Administration;

"(16) sell to lenders that are not Farm Credit System institutions interests in loans, and buy from and sell to Farm Credit System institutions interests in loans and other extensions of credit, and nonvoting stock as may be authorized under regulations issued by the Farm Credit Administration;

"(17) conduct studies and make and adopt standards for lending;

"(18) delegate to Federal land bank associations such functions as the bank determines appropriate;

Contracts.

"(19) amend and modify loan contracts, documents, and payment schedules, and release, subordinate, or substitute security for any of such items;

"(20) for loans made by the bank, require associations to endorse notes and other obligations of borrowers from the bank;

"(21) exercise through the board of directors or authorized officers, employees, or agents of the bank, all such incidental powers as may be necessary or expedient to carry on the business of the bank;

"(22) accept contributions to the capital of the bank from associations and account for such as authorized by the Farm Credit Administration; and

"(23) as may be authorized by the board of directors of the bank and approved by the Farm Credit Administration Board, agree with other Farm Credit System institutions to share loan and other losses, whether to protect against capital impairment or for any other purpose.

12 USC 2014.

"SEC. 1.6. FARM CREDIT BANK CAPITALIZATION.

"In accordance with section 4.3A, the Farm Credit Banks shall provide, through bylaws and subject to Farm Credit Administration regulations, for the capitalization of the bank and the manner in which bank stock shall be issued, held, transferred, and retired and bank earnings distributed.

101 STAT. 1625

12 USC 2015.

"SEC. 1.7. LENDING AUTHORITY.

"(a) REAL ESTATE LOANS.—The Farm Credit Banks are authorized to make or participate with other lenders in long-term real estate mortgage loans in rural areas, as defined by the Farm Credit Administration, or to producers or harvesters of aquatic products, and make continuing commitments to make such loans under specified circumstances, for a term of not less than 5 nor more than 40 years.

"(b) INTERMEDIATE CREDIT.—

"(1) IN GENERAL.—The Farm Credit Banks are authorized to make loans and extend other similar financial assistance to and to discount for or purchase from—

"(A) any production credit association, or

"(B) any national bank, State bank, trust company, agricultural credit corporation, incorporated livestock loan company, savings institution, credit union, or any association of agricultural producers engaged in the making of

loans to farmers and ranchers, and any corporation engaged in the making of loans to producers or harvesters of aquatic products,

any note, draft, or other obligation with the institution's endorsement or guarantee, the proceeds of which note, draft, or other obligation have been advanced to persons and for purposes eligible for financing by production credit associations as authorized by this Act.

"(2) PARTICIPATION WITH OTHER ENTITIES.—The Farm Credit Banks may participate with one or more production credit associations or other Farm Credit Banks in the making of loans to eligible borrowers and may participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act. The banks may own and lease or lease with option to purchase to persons eligible for assistance under this title, equipment needed in the operations of such persons.

"(3) LIMITATIONS ON EXTENSION OF FINANCIAL ASSISTANCE.—

"(A) GENERAL RULE.—No paper shall be purchased from or discounted for, and no loans shall be made or other similar financial assistance extended by a Farm Credit Bank to any entity identified in paragraph (1)(B) of this subsection if the amount of such paper added to the aggregate liabilities of such entity, whether direct or contingent (other than bona fide deposit liabilities), exceeds ten times the paid-in and unimpaired capital and surplus of such entity or the amount of such liabilities permitted under the laws of the jurisdiction creating such institution, whichever is the lesser.

"(B) LIMITATION ON NATIONAL BANK.—It shall be unlawful for any national bank which is indebted to any Farm Credit Bank, on paper discounted or purchased under paragraph (1), to incur any additional indebtedness, if by virtue of such additional indebtedness its aggregate liabilities direct or contingent, will exceed the limitation herein contained.

"(4) FCA REGULATIONS.—

"(A) IN GENERAL.—All of the loans, financial assistance, discounts and purchases authorized by this section shall be subject to regulations of the Farm Credit Administration and shall be secured by collateral, if any, as may be required in such regulations. 101 STAT. 1626

"(B) REQUIREMENT OF REGULATIONS.—The regulations shall assure that such loans, financial assistance, discounts, and purchases are available on a reasonable basis to any financing institution authorized to receive such services under paragraph (1)(B) of this subsection, and that—

"(i) is significantly involved in lending for agricultural or aquatic purposes;

"(ii) demonstrates a continuing need for supplementary sources of funds to meet the credit requirements of its agricultural or aquatic borrowers;

"(iii) has limited access to national or regional capital markets; and

"(iv) does not use such services to expand its financing activities to persons and for purposes other than those authorized under title II.

"(C) FEES.—The regulations may authorize a Farm Credit Bank to charge reasonable fees for any commitment to extend service under this section to such a financing institution.

"(D) SUBSIDIARIES AND AFFILIATES.—For purposes of this subsection, a financing institution together with the subsidiaries and affiliates of such may be considered as one, but such determination to consider such institution together with the subsidiaries and affiliates of such as one shall be made in the first instance by the bank and in the

event of a denial by the bank of its services to a financial institution, then by the Farm Credit Administration on a case-by-case basis with due regard to the total relationship of the financing institution, its subsidiaries, and affiliates.

"(5) EFFECTIVE DATE.—Nothing in this section shall require termination of discount relationships in existence on the effective date of the Farm Credit Act Amendments of 1980.

12 USC 2016.

"SEC. 1.8. INTEREST RATES AND OTHER CHARGES.

"(a) IN GENERAL.—Loans and discounts made by a Farm Credit Bank shall bear interest at a rate or rates, and on such terms and conditions, as may be determined by the board of directors of the bank from time to time.

"(b) SETTING RATES AND CHARGES.—In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers at the lowest reasonable costs on a sound business basis taking into consideration the cost of money to the bank, necessary reserve and expenses of the bank and associations, and providing services to members. The loan documents or discounting and financing agreements, may provide for the interest rate or rates to vary from time to time during the repayment period of the loan or agreement.

12 USC 2017.

"SEC. 1.9. ELIGIBILITY.

"The credit and financial services authorized in this title may be made available to persons who are or become stockholders or members of the bank or associations in the district, and who are—

"(1) bona fide farmers, ranchers, or producers or harvesters of aquatic products;

101 STAT. 1627

"(2) persons furnishing to farmers and ranchers farm-related services directly related to their on-farm operating needs; or

"(3) owners of rural homes.

12 USC 2018.

"SEC. 1.10. SECURITY; TERMS.

"(a) REAL ESTATE LOANS.—

"(1) MAXIMUM LEVEL OF LOANS.—

"(A) IN GENERAL.—Real estate mortgage loans originated by a Farm Credit Bank, or in which a Farm Credit Bank participates in with a lender that is not a System institution, shall not exceed 85 percent of the appraised value of the real estate security, except as provided for in paragraphs (2) and (3).

"(B) REGULATION.—The Farm Credit Administration may, by regulation, require that loans not exceed 75 percent of the appraised value of the real estate security.

State and local governments.

"(C) GUARANTEED LOANS.—If the loan is guaranteed by Federal, State, or other governmental agencies, the loan may not exceed 97 percent of the appraised value of the real estate security, as may be authorized under regulations of the Farm Credit Administration.

"(2) SECURITY.—All loans originated or participated in by a bank under this section shall be secured by first liens on interests in real estate of such classes as may be approved by the Farm Credit Administration.

"(3) VALUE OF SECURITY.—To adequately secure the loan, the value of security shall be determined by appraisal under appraisal standards prescribed by the bank and approved by the Farm Credit Administration.

"(4) ADDITIONAL SECURITY.—Additional security for any loan may be required by the bank to supplement real estate security. Credit factors, other than the ratio between the amount of the loan and the security value, shall be given due consideration.

"(5) FINANCIAL STATEMENT.—Each Farm Credit Bank shall require a financial statement from each borrower at least once every 3 years, or during such shorter period of time as may be required under regulations of the Farm Credit Administration.

"(b) INTERMEDIATE CREDIT.—Loans, other than real estate loans, and discounts made under the provisions of this title shall be repayable in not more than 7 years (15 years if made to producers or harvester of aquatic products) from the time that such are made or discounted by the Farm Credit Bank, except that the Board of Directors, under regulations of the Farm Credit Administration, may approve policies permitting loans, advances, or discounts (other than those made to producers or harvesters of aquatic products) to be repayable in not more than 10 years from the time that such are made or discounted by such bank.

"SEC. 1.11. PURPOSES FOR EXTENSIONS OF CREDIT. 12 USC 2019.

"(a) AGRICULTURAL OR AQUATIC PURPOSES.—Loans made by a Farm Credit Bank to farmers, ranchers, and producers or harvesters of aquatic products may be for any agricultural or aquatic purpose and other credit needs of the applicant, including financing for basic processing and marketing directly related to the applicant's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products, except that the operations of the applicant shall supply at least 20 percent, or such larger percent as 101 STAT. 1628
may be required by the board of directors of the bank under regulations of the Farm Credit Administration, of the total processing or marketing for which financing is extended.

"(b) RURAL HOUSING FINANCING.—

"(1) IN GENERAL.—Loans and discounts may be made to rural residents for rural housing financing under regulations of the Farm Credit Administration.

"(2) LIMITATIONS.—Rural housing financed under this title shall be for single-family, moderate-priced dwellings and their appurtenances not inconsistent with the general quality and standards of housing existing in, or planned or recommended for, the rural area where it is located, except that a Farm Credit Bank may not at any one time have a total amount of loans outstanding for such rural housing to persons other than farmers or ranchers in amounts exceeding 15 percent of the total of all loans outstanding in such bank.

"(3) RURAL AREAS.—For rural housing purposes under this section the term 'rural areas' shall not be defined to include any city or village having a population in excess of 2,500 inhabitants.

"(c) FARM-RELATED SERVICES.—

"(1) IN GENERAL.—Loans to persons furnishing farm-related services to farmers and ranchers directly related to their on-farm operating needs may be made for the necessary capital structures and equipment and initial working capital for such services.

"(2) FACILITIES.—The banks may own and lease, or lease with option to purchase, to persons eligible for credit under this title, facilities needed in the operations of such persons.

"SEC. 1.12. RELATED SERVICES. 12 USC 2020.

"The Farm Credit Banks may provide technical assistance to borrowers, members, and applicants from the bank and associations in the district, including persons obligated on paper discounted by the bank, and may make available to them at their option such financial related services appropriate to their on-farm and aquatic operations as determined to be feasible by the board of directors of each district bank, under regulations of the Farm Credit Administration.

"SEC. 1.13. LOANS THROUGH ASSOCIATIONS OR AGENTS. 12 USC 2021.

"(a) IN GENERAL.—The Farm Credit Banks shall, except as otherwise herein provided, make loans of the type authorized under section 1.7(a) through a Federal land bank association chartered to serve the territory in which the real estate of the borrower is located.

"(b) NO ACTIVE ASSOCIATION.—If there is no active association chartered to serve territory where the real estate is located, the bank may make the loan directly or through such bank or trust company or savings or other financial institution as such bank may designate.

"(c) PURCHASE OF STOCK REQUIRED.—When the loan is not made through a Federal land bank association, the applicant shall purchase stock in the bank in accordance with the capitalization requirements provided for in the bylaws of the bank.

101 STAT. 1629

12 USC 2022.

"SEC. 1.14. LIENS ON STOCK.

"The Farm Credit Banks shall have a first lien on the stock or participation certificates it issues for the payment of any liability of the stockholders to the bank.

12 USC 2023.

"SEC. 1.15. TAXATION.

State and local governments.

"The Farm Credit Banks and the capital, reserves, and surplus thereof, and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by a Farm Credit Bank to the same extent, according to its value, as other similar property held by other persons is taxed. The mortgages held by the Farm Credit Banks and the notes, bonds, debentures, and other obligations issued by the banks shall be considered and held to be instrumentalities of the United States and, as such, they and the income therefrom shall be exempt from all Federal, State, municipal, and local taxation, other than Federal income tax liability of the holder thereof under the Public Debt Act of 1941 (31 U.S.C. 742(a)).

"TITLE II—FARM CREDIT ASSOCIATIONS

"Subtitle A—Production Credit Associations

12 USC 2071.

"SEC. 2.0. ORGANIZATION AND CHARTERS.

"(a) CHARTER.—Each production credit association shall continue as a Federally chartered instrumentality of the United States.

"(b) ORGANIZATION.—

"(1) IN GENERAL.—Production credit associations may be organized by 10 or more farmers or ranchers or producers or harvesters of aquatic products desiring to borrow money under the provisions of this title.

"(2) ARTICLES OF ASSOCIATION.—The proposed articles of association shall be forwarded to the Farm Credit Bank for the district accompanied by an agreement to subscribe on behalf of the association for stock in the bank in such amounts as may be required by the bank.

"(3) CONTENTS OF ARTICLES.—The articles shall specify in general terms the—

"(A) objects for which the association is formed;

"(B) the powers to be exercised by the association in carrying out the functions authorized by this part; and

"(C) the territory the association proposes to serve.

"(4) SIGNATURES.—The articles shall be signed by persons desiring to form such an association and shall be accompanied by a statement signed by each such person establishing eligibility to borrow from the association in which such person will become a stockholder.

"(5) COPY TO FCA.—A copy of the articles of association shall be forwarded to the Farm Credit Administration with the recommendations of the bank concerning the need for such an association in order to adequately serve the credit needs of eligible persons in the proposed territory and whether that territory includes any area described in the charter of another production credit association.

"(6) DENIAL OF CHARTER.—The Farm Credit Administration for good cause shown may deny the charter. 101 STAT. 1630

"(7) APPROVAL OF ARTICLES.—On approval of the proposed articles by the Farm Credit Administration, and on the issuance of a charter, the association shall become as of such date a federally chartered body corporate and an instrumentality of the United States.

"(8) POWERS OF FCA.—The Farm Credit Administration shall have the power, under rules and regulations prescribed by the Farm Credit Administration or by prescribing in the terms of the charter or by approval of bylaws of the association to—

"(A) provide for the organization of the association;

"(B) provide for the initial amount of stock of the association;

"(C) provide for the territory within which the association's operations may be carried on; and

"(D) direct at any time such changes in the charter as the Farm Credit Administration finds necessary for the accomplishment of the purposes of this Act.

"SEC. 2.1. BOARD OF DIRECTORS. 12 USC 2072.

"Each production credit association shall elect from the voting members of such association, a board of directors of such number, for such terms, with such qualifications, and in such manner as may be required by the bylaws of the association, except that, at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

"SEC. 2.2. GENERAL CORPORATE POWERS. 12 USC 2073.

"Each production credit association shall be a body corporate and, subject to supervision by the Farm Credit Bank for the district and regulation by the Farm Credit Administration, shall have the power to—

"(1) have succession until terminated in accordance with this Act or any other Act of Congress;

"(2) adopt and use a corporate seal;

"(3) make contracts; Contracts.

"(4) sue and be sued;

"(5) acquire, hold, dispose, and otherwise exercise all of the usual incidents of ownership of real and personal property necessary or convenient to the business of the association;

"(6) operate under the direction of the board of directors of the association in accordance with the provisions of this Act;

"(7) subscribe to stock of the bank;

"(8) purchase stock of the bank held by other production credit associations and stock of other production credit associations;

"(9) contribute to the capital of the bank or other production credit associations;

"(10) invest funds of the association as may be approved by the Farm Credit Bank under regulations of the Farm Credit Administration and deposit the current funds and securities of such with the Farm Credit Bank, a member bank of the Federal Reserve System, or any bank insured under the Federal Deposit Insurance Corporation, and may pay fees therefor and receive interest thereon as may be agreed; 101 STAT. 1631

"(11) buy and sell obligations of or insured by the United States or of any agency thereof or of any banks of the Farm Credit System and buy from and sell to such banks, interests in loans and in other financial assistance extended and nonvoting stock, as may be authorized by the Farm Credit Bank in accordance with regulations of the Farm Credit Administration;

"(12) borrow money from the Farm Credit Bank, and with the approval of such bank, borrow from and issue notes or other obligations to any commercial bank or other financial institution;

"(13) make and participate in loans, accept advance payments, and provide services and other assistance as authorized in this subtitle and charge fees therefor, and when authorized by the bank participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act;

"(14) endorse and become liable on loans discounted or pledged to the Farm Credit Bank;

"(15) as may be authorized by the Farm Credit Bank in accordance with regulations of the Farm Credit Administration, agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purpose;

"(16) prescribe by the board of directors of the association the bylaws not inconsistent with law providing for—

"(A) the classes of association stock and the manner in which the stock shall be issued, transferred, and retired;

"(B) the officers and employees elected or provided for;

"(C) the property acquired, held, and transferred by the association; and

"(D) the general business conducted, and the privileges granted to the association by law exercised and enjoyed;

"(17) elect by the board of directors of the association a manager or other chief executive officer, and provide for such other officers or employees as may be necessary, including joint employees as provided in this Act, define their duties, and require surety bonds or make other provisions against losses occasioned by employees, but no director shall, within one year after the date when such director ceases to be a member of the board, be elected or designated a salaried employee of the association on the board of which he served;

"(18) elect by the board of directors of the association a loan committee with power to approve applications for membership in the association and loans or participations or, with the approval of the bank, delegate the approval of applications for membership and loans or participations within specified limits to other committees or to authorized officers and employees of the association;

"(19) perform any functions delegated to the association by the bank; and

"(20) exercise by the board of directors or authorized officers or employees of the association, all such incidental powers as may be necessary or expedient to carry on the business of the association.

101 STAT. 1632

12 USC 2074.

"SEC. 2.3. PRODUCTION CREDIT ASSOCIATION CAPITALIZATION.

"(a) IN GENERAL.—In accordance with section 4.3A, each production credit association shall provide, through its bylaws and subject to Farm Credit Administration regulations, for its capitalization and the manner in which its stock shall be issued, held, transferred, and retired and, except as provided in subsection (b), its earnings distributed.

"(b) APPLICATION OF EARNINGS.—Each production credit association at the end of each fiscal year shall apply the amount of the earnings of the association for such year in excess of the operating expenses of the association (including provision for valuation reserves against loan assets in an amount equal to one-half of 1 percent of the loans outstanding at the end of the fiscal year to the extent that such earnings in such year in excess of other operating expenses permit, or in such greater amounts as are deemed necessary under generally accepted accounting principles, until such reserves equal or exceed 3½ percent of the loans outstanding at the end of the fiscal year, beyond which 3½ percent further additions to such reserves may be made, if deemed necessary under generally

accepted accounting principles) first to the restoration of the impairment, if any, of capital, and second, to the establishment and maintenance of the surplus accounts, the minimum aggregate amount of which shall be prescribed by the Farm Credit Bank.

"(c) PATRONAGE.—When the bylaws of an association so provide and subject to the general directions of the Farm Credit Administration, available net earnings at the end of any fiscal year may be distributed on a patronage basis in stock, participation certificates, or in cash. Any part of the earnings of the fiscal year in excess of the operating expenses for such year held in the surplus account may be allocated to patrons on a patronage basis.

"SEC. 2.4. SHORT- AND INTERMEDIATE-TERM LOANS; PARTICIPATION; OTHER FINANCIAL ASSISTANCE; TERMS; CONDITIONS; INTEREST; SECURITY. 12 USC 2075.

"(a) SHORT- AND INTERMEDIATE-TERM LOANS.—Each production credit association, under standards prescribed by the board of directors of the Farm Credit Bank of the district, may make, guarantee, or participate with other lenders in short- and intermediate-term loans and other similar financial assistance to—

"(1) bona fide farmers and ranchers and the producers or harvesters of aquatic products, for agricultural or aquatic purposes and other requirements of such borrowers, including financing for basic processing and marketing directly related to the operations of the borrower and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products, except that the operations of the borrower shall supply at least 20 percent, or such larger percent as is required by the supervising bank under regulations of the Farm Credit Administration, of the total processing or marketing for which financing is extended;

"(2) rural residents for housing financing in rural areas, under regulations of the Farm Credit Administration; and

"(3) persons furnishing to farmers and ranchers farm-related services directly related to their on-farm operating needs.

"(b) RURAL HOUSING.—

"(1) IN GENERAL.—Rural housing financed under this title shall be for single-family, moderate-priced dwellings and the appurtenances of such not inconsistent with the general quality and standards of housing existing in, planned or recommended for, the rural area where it is located. 101 STAT. 1633

"(2) LIMITATION.—The aggregate of such housing loans in an association to persons other than farmers or ranchers shall not exceed 15 percent of the outstanding loans at the end of its preceding fiscal year except on prior approval by the Farm Credit Bank of the district. The aggregate of such housing loans in any farm credit district shall not exceed 15 percent of the outstanding loans of all associations in the district at the end of the preceding fiscal year.

"(3) RURAL AREAS.—For rural housing purposes under this section the term 'rural areas' shall not be defined to include any city or village having a population in excess of 2,500 inhabitants.

"(4) EQUIPMENT.—Each association may own and lease, or lease with option to purchase, to stockholders of the association equipment needed in the operations of the stockholder.

"(c) INTEREST RATES AND CHARGES.—

"(1) IN GENERAL.—Loans authorized in subsection (a) hereof shall bear such rate or rates of interest as are determined under standards prescribed by the board of the bank subject to the provisions of section 4.17 of this Act, and shall be made upon such terms, conditions, and upon such security, if any, as shall be authorized in such standards.

"(2) SETTING OF RATES.—In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers, at the lowest reasonable cost on a sound business

basis, taking into account the cost of money to the association, necessary reserves and expenses of the association, and services provided to borrowers and members.

"(3) VARYING RATES.—The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan in accordance with the rate or rates currently being charged by the association.

"(4) PRIOR APPROVAL.—Such standards may require prior approval of the bank on certain classes of loans, and may authorize a continuing commitment to a borrower of a line of credit.

12 USC 2076.

"SEC. 2.5. OTHER SERVICES.

"Each production credit association may provide technical assistance to borrowers, applicants, and members and may make available to them at their option such financial related services appropriate to their on-farm and aquatic operations as is determined feasible by the board of directors of each Farm Credit Bank, under regulations prescribed by the Farm Credit Administration.

State and local governments.
12 USC 2077.

"SEC. 2.6. TAXATION.

"Each production credit association and its obligations are instrumentalities of the United States and as such any and all notes, debentures, and other obligations issued by such associations shall be exempt, both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States or any State, territorial, or local taxing authority.

101 STAT. 1634

"Subtitle B—Federal Land Bank Associations

12 USC 2091.

"SEC. 2.10. ORGANIZATIONS; ARTICLES; CHARTERS; POWERS OF THE FARM CREDIT ADMINISTRATION.

"(a) CHARTER.—Each Federal land bank association shall continue as a federally chartered instrumentality of the United States.

"(b) ORGANIZATION.—

"(1) IN GENERAL.—A Federal land bank association may be organized by any group of 10 or more persons desiring to borrow money from a Farm Credit Bank, including persons to whom the Farm Credit Bank has made a loan directly or through an agent and has taken as security real estate located in the territory proposed to be served by the association.

"(2) ARTICLES OF ASSOCIATION.—

"(A) DESCRIPTION OF TERRITORY.—The articles of association shall describe the territory within which the association proposes to carry on its operations.

"(B) SUBMISSION TO FCA.—Proposed articles shall be forwarded to the Farm Credit Bank for the district, accompanied by an agreement to subscribe on behalf of the association for stock in accordance with the bylaws of the Farm Credit Bank.

"(C) STOCK PURCHASE.—Association stock may be paid for by surrendering for cancellation stock in the bank held by a borrower and the issuance of an equivalent amount of stock to such borrower in the association.

"(D) STATEMENT.—The articles shall be accompanied by a statement signed by each of the members of the proposed association establishing—

"(i) the individual's eligibility for, and request or need of the individual of a Farm Credit Bank loan;

"(ii) that the real estate with respect to which the individual desires the loan for is not being served by another Federal land bank association; and

"(iii) that the individual is or will become a stockholder in the proposed association.

"(E) SUBMISSION TO FCA.—A copy of the articles of association shall be forwarded to the Farm Credit Administration with the recommendations of the bank concerning the need for the proposed association in order to adequately serve the credit needs of eligible persons in the proposed territory and a statement as to whether or not the territory includes any territory described in the charter of another Federal land bank association.

"(3) DENIALS OF CHARTERS.—The Farm Credit Administration for good cause shown may deny the charter applied for.

"(4) APPROVAL OF ARTICLES.—On the approval of the proposed articles by the Farm Credit Administration and the issuance of such charter, the association shall become as of such date a federally chartered body corporate and an instrumentality of the United States.

"(c) FCA AUTHORITY ON ORGANIZATION.—The Farm Credit Administration shall have power, in the terms of the charter, under rules and regulations prescribed by the Farm Credit Administration or by approving the bylaws of the association, to provide for the—

"(1) organization of the association;

101 STAT. 1635

"(2) the initial amount of stock of such association;

"(3) the territory within which the operations of the association may be carried on; and

"(4) to direct at any time changes in the charter of such association as the Farm Credit Administration finds necessary in accomplishing the purposes of this Act.

"SEC. 2.11. BOARD OF DIRECTORS.

12 USC 2092

"Each Federal land bank association shall elect from its voting shareholders a board of directors of such number, for such terms, in such manner, and with such qualifications as may be required by its bylaws except that, at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

"SEC. 2.12. GENERAL CORPORATE POWERS.

12 USC 2093

"Each Federal land bank association shall be a body corporate and, subject to supervision of the Farm Credit Bank for the district and the regulation of the Farm Credit Administration, shall have the power to—

"(1) adopt and use a corporate seal;

"(2) have succession until dissolved under the provisions of this Act or other Act of Congress;

"(3) make contracts;

Contracts

"(4) sue and be sued;

"(5) acquire, hold, dispose, and otherwise exercise all of the usual incidents of ownership of real estate and personal property necessary or convenient to the business of the association;

"(6) operate under the direction of the board of directors of the association in accordance with this Act;

"(7) elect by its board of directors a manager or other chief executive officer, and provide for such other officers or employees as may be necessary, including joint employees as provided in this Act, define the duties of such, and require surety bonds or make other provision against losses occasioned by employees, except that no director shall, within one year after the date when such director ceases to be a member of the board, be elected or designated a salaried employee of the association on the board of which such director served;

"(8) prescribe by its board of directors, association bylaws, not inconsistent with law, providing for the classes of association stock and the manner in which such stock shall be issued, transferred, and retired; the officers and employees of the association elected or provided for, the property of the association that is acquired, held, and transferred, the general business of the association conducted, and the privileges granted to the association by law exercised and enjoyed;

"(9) accept applications for Farm Credit Bank loans and receive from such bank and disburse to the borrowers the proceeds of such loans;

"(10) subscribe to stock of the Farm Credit Bank of the district;

"(11) elect by its board of directors a loan committee with power to elect applicants for membership in the association and recommend loans to the Farm Credit Bank, or with the approval of the Farm Credit Bank, delegate the election of applicants for membership and the approval of loans within specified limits to other committees or to authorized employees of the association;

101 STAT. 1636

"(12) on agreement with the bank, take such additional actions with respect to applications and loans and perform such functions as are vested by law in the Farm Credit Banks as may be agreed to or delegated to the association;

"(13) endorse and become liable to the bank on loans it makes to association members;

"(14) receive such compensation and deduct such sums from loan proceeds with respect to each loan as may be agreed between the association and the bank and make such other charges for services as may be approved by the bank;

"(15) provide technical assistance to members, borrowers, applicants, and other eligible persons and make available to them, at their option, such financial related services appropriate to their operations as it determines, with Farm Credit Bank approval, are feasible, under regulations of the Farm Credit Administration;

"(16) borrow money from the bank and, with the approval of such bank, borrow from and issue association notes or other obligations to any commercial bank or other financial institution;

"(17) buy and sell obligations of or insured by the United States or any agency thereof or of any banks of the Farm Credit System;

"(18) invest association funds in such obligations as may be authorized in regulations of the Farm Credit Administration and approved by the bank and deposit securities and current funds of the association with any member bank of the Federal Reserve System, with the Farm Credit Bank, or with any bank insured by the Federal Deposit Insurance Corporation, and pay fees therefor and receive interest thereon as may be agreed;

"(19) perform such other function delegated to the association by the Farm Credit Bank of the district;

"(20) exercise by its board of directors or authorized officers or agents all such incidental powers as may be necessary or expedient in the conduct of its business; and

"(21) contribute to the capital of the bank.

12 USC 2094.

"SEC. 2.13. FEDERAL LAND BANK ASSOCIATION CAPITALIZATION.

"In accordance with section 4.3A, the Federal land bank association shall provide, through its bylaws and subject to Farm Credit Administration regulations, for its capitalization and the manner in which its stock shall be issued, held, transferred, and retired and its earnings distributed.

12 USC 2095.

"SEC. 2.14. LIQUIDATION.

"Whenever any Federal land bank association is liquidated, a sum equal to its reserve account as required in this Act shall be paid and become the property of the bank in which such association is a shareholder.

12 USC 2096.

"SEC. 2.15. AGREEMENTS FOR SHARING GAINS OR LOSSES.

"Each Farm Credit Bank may enter into agreements with Federal land bank associations in its district for sharing the gain or losses on loans or on security held therefor or acquired in liquidation thereof, and associations are authorized to enter into any such agreements

and also, subject to bank approval, agreements with other associations in the district for sharing the risk of loss on loans endorsed by each such association. As may be authorized by the bank in accordance with regulations of the Farm Credit Administration, associations also may enter into agreements with other Farm Credit System institutions to share loan and other losses, whether to protect against capital impairment or for any other purpose. 101 STAT. 1637

"SEC. 2.16. LIENS ON STOCK. 12 USC 2097.

"Each Federal land bank association shall have a first lien on the stock and participation certificates it issues, except on stock or participation certificates held by other Farm Credit System institutions, for the payment of any liability of the stockholder to the association or to the bank, or to both of them.

"SEC. 2.17. TAXATION. State and local governments. 12 USC 2098.

"Each Federal land bank association and the capital, reserves, and surplus thereof, and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by a Federal land bank association to the same extent, according to its value, as other similar property held by other persons is taxed. The mortgages held by the Federal land bank associations and the notes, bonds, debentures, and other obligations issued by the banks shall be considered and held to be instrumentalities of the United States and, as such, they and the income therefrom shall be exempt from all Federal, State, municipal, and local taxation, other than Federal income tax liability of the holder thereof under the Public Debt Act of 1941 (31 U.S.C. 742(a))."

Subtitle B—Merger of System Institutions

SEC. 410. MANDATORY MERGER. 12 USC 2011 note.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this section, the Federal land bank and the Federal intermediate credit bank of each district shall merge into a Farm Credit Bank in such district pursuant to a plan of merger agreed on by the Boards of Directors of such banks and approved by the Farm Credit Administration, or if such banks fail to agree, a plan of merger prescribed by the Farm Credit Administration.

(b) CAPITAL STOCK.—The number of shares of capital stock issued by a Farm Credit Bank to stockholders and other owners of the institution involved in the merger, and the rights and privileges of such shares (including voting power, redemption rights, preferences on liquidation, and the right to dividends) shall be determined by the plan of merger adopted by the merging banks, and shall be consistent with section 4.3A and the regulations issued by the Farm Credit Administration.

(c) ASSISTANCE.—The Assistance Board shall direct the Financial Assistance Corporation to provide any Farm Credit Bank with that amount of financial assistance as is necessary to ensure that the stock of the Farm Credit Bank, upon implementation of the merger, has a book value equal to 75 percent of par, and such Farm Credit Bank shall be subject to all of the requirements of title VI of the Farm Credit Act of 1971. 101 STAT. 1638

(d) INITIAL BOARD.—The initial board of each Farm Credit Bank shall be composed of the members of the district board (which is dissolved upon the creation of such bank) elected by the production credit associations, Federal land bank associations, and stockholders at large. Such initial board shall operate for such term as is agreed to by the members of the board, except that such period shall not exceed two years. Thereafter the board shall be elected and serve in accordance with the provisions of section 1.4 of the Farm Credit Act of 1971.

12 USC 2071 note.

SEC. 411. MERGER OF PRODUCTION CREDIT ASSOCIATIONS AND FEDERAL LAND BANK ASSOCIATIONS.

(a) SUBMISSION OF PROPOSAL.—Not later than 6 months after the date of the merger of the Federal land bank and the Federal intermediate credit bank in a district, the Boards of Directors of each Federal land bank association and each production credit association in such district, that share substantially the same geographical territory with each other, shall submit to the voting stockholders of each such association for their approval, a plan, approved by the supervising bank and the Farm Credit Administration, for merging such associations.

(b) PREREQUISITES TO MERGER.—

(1) STOCKHOLDER VOTE.—The stockholder vote required for approval of a merger under subsection (a) shall be a majority of the voting stockholders of each association voting, in person or by written proxy, at a duly authorized stockholders meeting.

(2) SUBMISSION TO FCA.—Not later than 60 days prior to the end of the 6-month period beginning on the date of the enactment of this section, the plan of merger under subsection (a), together with all information to be presented to the stockholders, shall be submitted to the Farm Credit Administration.

(3) EXPEDITED CONSIDERATION BY FCA.—The Farm Credit Administration shall expedite its consideration of the plan and accompanying information submitted under paragraph (2) so that review and approval of such plan and information shall be completed by the Administration so as to enable a stockholder vote to occur within the 6-month period referred to in paragraph (2).

(c) DIRECT LENDERS.—On approval of a merger under this subsection, the resulting association shall be a direct lender in the same manner as applies to production credit associations.

12 USC 2221 note.

SEC. 412. CONSOLIDATION OF FARM CREDIT SYSTEM DISTRICTS.

(a) SUBMISSION OF PROPOSAL.—

(1) SPECIAL COMMITTEE.—

(A) IN GENERAL.—Not later than 6 months after the date of the enactment of this section, a special committee shall be selected pursuant to regulations of the Farm Credit Administration for the purpose of developing a proposal for the consolidation of Farm Credit System districts.

(B) COMPOSITION.—The special committee selected under subparagraph (A) shall be composed of one representative from each Farm Credit Bank board and the members of the Board of Directors of the Assistance Board.

(2) DEVELOPMENT OF PROPOSAL.—Not later than 6 months after the formation of the special committee, the committee shall develop, a proposal to consolidate the Farm Credit System banks into no less than six financially viable farm credit banks through inter-district mergers.

101 STAT. 1639

(3) REPORT.—Not later than the end of each calendar quarter beginning at least 6 months after the selection of the special committee, such committee shall prepare and submit, to the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the progress of the committee in developing a proposal under this subsection.

(b) PREREQUISITES TO CONSOLIDATION.—

(1) FCA REVIEW OF PROPOSAL.—Prior to the submission of the proposal developed under subsection (b)(2) to the stockholders under paragraph (2), the proposal together with all information to be presented to the stockholders, shall be submitted to the Farm Credit Administration for approval.

(2) PREREQUISITES.—Proposals developed under subsection (a)(2) shall not be submitted to stockholders under paragraph (3) unless the proposal is approved by—

(A) a majority of the members of the Board of Directors of the Assistance Board; and

(B) the members of the special committee that represent the districts affected by the terms of the proposal.

(3) SUBMISSION TO STOCKHOLDERS.—Not later than the end of the 18-month period after the date of enactment of this Act, each Farm Credit Bank involved, in consultation with the special committee, shall submit the proposed merger affecting such bank to the voting stockholders of each such bank.

(4) STOCKHOLDER VOTE.—Each association shall be entitled to cast a number of votes equal to the number of voting stockholders of such association.

SEC. 413. VOLUNTARY MERGER OF THE BANKS FOR COOPERATIVES. 12 USC 2121 note.

(a) SUBMISSION OF PROPOSAL.—

(1) SPECIAL COMMITTEE.—

(A) IN GENERAL.—Not later than 15 days after the date of the enactment of this section, a special committee shall be selected pursuant to subparagraph (B), for the purpose of developing a proposal for the voluntary merger of the banks for cooperatives.

(B) COMPOSITION.—The special committee selected under subparagraph (A) shall be composed of—

(i) one member of each district board elected by the voting stockholders of the bank for cooperatives in the district; and

(ii) one member chosen from the board of directors of the Central Bank for Cooperatives by the board of such Bank.

(C) DEVELOPMENT OF PLAN.—Not later than 75 days after the date of the enactment of this section, the special committee shall develop a plan of merger for all such banks and the Central Bank for Cooperatives into a National Bank for Cooperatives.

(2) PREREQUISITES TO MERGER.—

(A) SUBMISSION TO FCA.—On completion of the plan of merger pursuant to subparagraph (C), the special committee shall submit the proposed plan, together with all information that is to be distributed to the stockholders concerning such plan, to the Farm Credit Administration for approval. 101 STAT. 1640

(B) EXPEDITED REVIEW.—Not later than 30 days after the Farm Credit Administration receives the plan of merger, the Administration shall promptly review such plan and advise the special committee concerning any required changes that are necessary to the plan.

"(3) SUBMISSION TO STOCKHOLDERS.—On approval of the plan by the Farm Credit Administration, the special committee shall, under such procedures as may be established by the committee, submit the plan and recommendations to all voting stockholders and subscribers to the guaranty funds of the district banks and the Central Bank for Cooperatives.

(b) VOTING REQUIREMENTS.—

(1) MAJORITY VOTE REQUIRED.—An approval of the plan of merger developed and submitted under subsection (a) shall—

(A) require a majority vote of the stockholders of each district bank for cooperatives voting, in person or by proxy, at a duly authorized stockholders' meeting, computed both—

(i) in accordance with the requirement that, except as provided in section 3.3(d), each cooperative that is the holder of voting stock in, or a subscriber to the guaranty fund of the bank for cooperatives shall be entitled to cast one vote; and

(ii) on the basis of the total equity interests in the bank (including allocated, but not unallocated, surplus and reserves) held by such stockholders;

(B) require a majority vote of the voting stockholders of the Central Bank for Cooperatives voting on a one-bank-one-vote basis;

(C) take place not later than 180 days after the date of the enactment of this section; and

(D) take place prior to any other merger vote involving a bank for cooperatives.

(2) APPROVAL BY ALL BANKS FOR COOPERATIVES.—If the stockholders of all of the banks for cooperatives approve the merger, the merger shall take place.

(3) EFFECT OF LESSER VOTE.—If the stockholders of more than one but fewer than all of the banks approve the plan, each such bank whose stockholders voted to approve the merger shall be merged into a single bank for cooperatives, as provided in paragraphs (4) or (5).

(4) NATIONAL BANK FOR COOPERATIVES.—

(A) CREATION.—If the stockholders of eight or more of the district banks approve the merger, such banks, and the Central Bank for Cooperatives, shall be merged into a single bank, which shall be referred to as the "National Bank for Cooperatives".

(B) SERVICES PROVIDED.—The National Bank for Cooperatives may offer credit and related services to eligible borrowers located within any territory that may be served by Farm Credit System institutions under section 5.0, or to any borrower otherwise eligible under section 3.7(b).

(5) UNITED BANK FOR COOPERATIVES.—

101 STAT. 1641

(A) CREATION.—If the stockholders of more than one but fewer than eight of the district banks approve the plan, each such bank, and the Central Bank for Cooperatives (if approved by a numerical majority of its stockholders), shall be merged into a single bank, which shall be referred to as the "United Bank for Cooperatives".

(B) SERVICES PROVIDED.—The United Bank for Cooperatives shall offer credit and related services only in the territory included, as of the date of the enactment of this section, within the boundaries of the districts that had been served by the constituent banks of the United Bank for Cooperatives, and to any borrower otherwise eligible under section 3.7(b).

(6) NONCONSENTING BANKS.—

(A) IN GENERAL.—

(i) NATIONAL BANK FOR COOPERATIVES.—Any of the district banks whose stockholders did not approve the plan of merger may offer credit and related services to any eligible borrowers within any territory or area that may be served by the National Bank.

(ii) UNITED BANK FOR COOPERATIVES.—Any of the district banks whose stockholders did not approve the plan of merger, shall continue as district banks for cooperatives and shall continue to serve only the territory within the boundaries of the district that such banks served as of the date of the enactment of this section.

(B) NONDISCRIMINATION.—Any district bank whose stockholders did not approve the plan of merger, shall be entitled to the availability, from the National Bank for Cooperatives or the United Bank for Cooperatives, as the case may be, of the same credit and related services now provided by the Central Bank for Cooperatives as of the date of the enactment of this section, regardless of the decision not to merge.

(C) SUBSEQUENT MERGERS.—Any district bank referred to in subparagraph (A) may subsequently merge with the National Bank for Cooperatives or the United Bank for Cooperatives, as the case may be, on the approval of the voting stockholders of both banks proposing to merge based on the voting requirement of subsection (a).

(c) REFERENCES.—References in this section to voting stockholders shall include subscribers to the guaranty fund.

SEC. 414. BANK FOR COOPERATIVES BOARD OF DIRECTORS. 12 USC 2121 note.

(a) INITIAL BOARD.—The initial board of each district bank for cooperatives shall be composed of the members of the district board (which is dissolved upon the creation of the district Farm Credit Bank) elected by the stockholders of the bank for cooperatives and one member elected by the other two members, which member shall not be a director, officer, employee, or stockholder of a System institution. The initial board shall operate for such term as is agreed to by the members of the board, except that such period shall not exceed two years. Thereafter, the board shall be elected and serve in accordance with section 3.0 of the Farm Credit Act of 1971.

(b) PERMANENT BOARD.—Section 3.0 of the Act shall be amended— 12 USC 2121

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) Each bank for cooperatives shall elect from its voting stockholders a board of directors of such number, for such term, in such manner, and with such qualifications as may be required in its bylaws, except that, at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.". 101 STAT. 1642

SEC. 415. ORGANIZATION AND OPERATION OF THE MERGED BANK FOR COOPERATIVES.

Title III (12 U.S.C. 2121 et seq.) is amended—

(1) by inserting after the title designation the following:

"PART A—BANKS FOR COOPERATIVES"; and

(2) by adding at the end thereof the following new part:

"PART B—UNITED AND NATIONAL BANKS FOR COOPERATIVES

"SEC. 3.20. CHARTER, POWERS, AND OPERATION. 12 USC 2141.

"(a) CHARTER.—The National Bank for Cooperatives or the United Bank for Cooperatives, as the case may be (hereinafter in this part referred to in this section as the 'consolidated bank') shall be a federally chartered instrumentality of the United States and an institution of the Farm Credit System.

"(b) POWERS.—The consolidated bank and the board of directors of such bank shall have all of the powers, rights, responsibilities, and obligations of the district banks for cooperatives and the Central Bank for Cooperatives and the boards of directors of such banks, as otherwise provided for in this Act.

"(c) OPERATION.—The consolidated bank shall be organized and operated on a cooperative basis.

"SEC. 3.21. BOARD OF DIRECTORS PROVISIONS. 12 USC 2142.

"(a) INITIAL BOARD OF DIRECTORS.—The initial board of directors of a consolidated bank shall include the members of the boards of directors of the farm credit districts who were elected by voting stockholders of the constituent district banks for cooperatives (as such banks existed on the date of the enactment of this section) and who shall serve out the terms for which they were elected.

"(b) PERMANENT BOARD OF DIRECTORS.—

"(1) COMPOSITION.—The permanent board of directors of a consolidated bank shall consist of—

"(A) three members, elected by the voting stockholders of the consolidated bank, from each of the farm credit districts that had been served by constituent banks, as such districts existed on the date of the enactment of this section, at least one of whom, from each such district, shall be a farmer;

"(B) one member elected by the voting stockholders of each district bank for cooperatives that is not a constituent of the consolidated bank; and

"(C) one member appointed by the members chosen under subparagraphs (A) and (B) who shall not be a stockholder or borrower of a System institution or an officer or director of any such stockholder or borrower.

"(2) NOMINATION AND ELECTION.—For purposes of nominating and electing members of the board of directors under paragraph (1)(A):

101 STAT. 1643

"(A) FIRST MEMBER.—The nomination and election of the first member from each district shall be carried out on the basis provided for in section 3.3(d).

"(B) SECOND MEMBER.—

"(i) IN GENERAL.—The nomination and election of the second member from each district shall be carried out with each voting stockholder of the consolidated bank located in the district having one vote, plus a number of votes (or fractional part thereof) equal to the number of stockholders eligible to vote in that district multiplied by the percentage (or fractional part thereof) of the total equity interest (including allocated, but not unallocated, surplus and reserves) in the consolidated bank of all such stockholders located in that district held by the individual voting stockholder—

"(I) as of the final date of the fiscal year of the consolidated bank; or

"(II) with respect to the first election held under this subsection, as of such date as the Farm Credit Administration shall prescribe.

"(ii) TOTAL NUMBER OF VOTES.—The total number of votes for each district under this subparagraph shall be the number of voting stockholders of the consolidated bank located in the district multiplied by two.

"(3) TERMS.—

"(A) IN GENERAL.—The members of the board of directors of the consolidated bank shall serve for a term of 3 years.

"(B) TIMING OF ELECTIONS.—Procedures for electing members of the board of directors of the consolidated bank under this subsection shall ensure that the beginning of the terms of such members coincide with the expiration of the terms of members of the interim board of directors of the bank under subsection (a).

"(4) FCA REGULATIONS.—The nomination and election of the members of the board of directors of the consolidated bank under this subsection shall be carried out in accordance with regulations issued by the Farm Credit Administration.

"(c) MODIFICATION OF BOARD OF DIRECTORS PROVISIONS.—The provisions of subsection (b) relating to the board of directors of the consolidated bank, other than the provisions relating to the initial composition, nomination, and election of the members of the board, may be modified on an affirmative vote of at least two-thirds of the voting stockholders of the bank, with each such stockholder to have, for such purposes, only one vote. Any proposals for modifying such provisions shall be submitted for a vote by such stockholders in accordance with procedures prescribed by the Farm Credit Administration.

12 USC 2143.

"SEC. 3.22. CREDIT DELIVERY OFFICE.

"On a determination by the board of directors of the United Bank for Cooperatives or the National Bank for Cooperatives that the bank's loan portfolio is concentrated in any one district or districts (according to the district boundaries in effect immediately prior to the effective date of the merger), the bank may consider the creation of regional service centers to accommodate such loan concentrations.

"SEC. 3.23. CONSOLIDATION OF FUNCTIONS. 12 USC 2144.

"Subject to section 3.22, to the greatest extent practicable, the functions of the consolidated bank shall be consolidated in the central office of the bank. 101 STAT. 1644

"SEC. 3.24. EXCHANGE OF OWNERSHIP INTERESTS. 12 USC 2145.

"On the establishment of the consolidated bank, ownership interests of the stockholders and subscribers to the guaranty funds of the constituent district banks for cooperatives (including stock, participation certificates, and allocated equities) shall be exchanged for like ownership interests in the consolidated bank on a book value basis.

"SEC. 3.25. CAPITALIZATION. 12 USC 2146.

"The board of directors of the consolidated bank shall provide for the capitalization of such bank in accordance with the provisions of section 4.3A.

"SEC. 3.26. PATRONAGE POOLS. 12 USC 2147.

"Under such terms and conditions as may be determined by its board of directors, the consolidated bank may—

"(1) for a period of at least 3 years following the date of the enactment of this section, establish separate patronage pools consisting of loans to eligible borrowers located in each constituent farm credit district (as such district existed on the date of the enactment of this section); and

"(2) allocate revenues, expenses, and net savings among such pools on an equitable basis.

"SEC. 3.27. TRANSACTIONS TO ACCOMPLISH THE MERGER. 12 USC 2148.

"The receipt of assets or assumption of liabilities by the consolidated bank, the exchange of stock, equities, or other ownership interests, and any other transaction carried out in accomplishing the merger of the banks for cooperatives shall not be treated as a taxable event under the laws of the United States or of any State or political subdivision thereof. The preceding sentence shall also apply to the receipt of assets and liabilities by a taxable institution to the extent that the net amount of the distribution is immediately reinvested in stock of a consolidated bank (and in such case the basis of such stock shall be appropriately reduced by the amount of gain not recognized by reason of this sentence).

"SEC. 3.28. LENDING LIMITS. 12 USC 2149.

"The Farm Credit Administration may not establish lending limits for the consolidated bank with respect to any loans or borrowers that are more restrictive than the combined lending limits that were previously established by the Farm Credit Administration for a district bank for cooperatives and the Central Bank for Cooperatives with respect to such loans or borrowers.".

SEC. 416. MERGER OF SYSTEM INSTITUTIONS.

The Act (12 U.S.C. 2001 et seq.) (as amended by section 201 of this Act) is further amended by adding at the end thereof the following new title:

101 STAT. 1645

"TITLE VII—MERGERS OF SYSTEM INSTITUTIONS

"Subtitle A—Merger of Banks Within a District

12 USC 2279a.

"SEC. 7.0. POWER TO MERGE.

"Two or more banks within a district may merge into a single entity (hereinafter in this title referred to as a 'merged bank') if the plan of merger is approved by—

"(1) the Farm Credit Administration Board;

"(2) the respective boards of directors of the banks involved;

"(3) a majority of the stockholders of each bank voting, in person or by proxy, at a duly authorized stockholders' meeting in accordance with the provisions of section 5.2(c) relating to the casting of votes by stockholders; and

"(4) in the case of a bank for cooperatives, a majority of the total equity interests in such merging bank for cooperatives (including allocated, but not unallocated, surplus and reserves) held by those stockholders or subscribers to the guaranty fund of the bank voting.

12 USC 2279a-1.

"SEC. 7.1. BOARD OF DIRECTORS FOR THE DISTRICT.

"(a) COMPOSITION.—

"(1) IN GENERAL.—Following a merger pursuant to section 7.1, the district Board of Directors shall continue to be composed of seven members as provided in section 5.1.

"(2) REGULATIONS.—The Farm Credit Administration shall issue regulations to ensure the fair and equitable representation of the associations of each of the merging banks on the initial Board of Directors of the merged bank.

"(b) ELECTION.—Following a merger pursuant to section 7.8, the members of the district board shall be elected pursuant to regulations issued by the Farm Credit Administration prescribing procedures that are as consistent as practicable with those set forth in section 5.2.

12 USC 2279a-2.

"SEC. 7.2. POWERS OF MERGED BANKS.

"(a) IN GENERAL.—Except as otherwise provided in this title, a merged bank shall have all of the powers granted to, and shall be subject to all of the obligations imposed on, any of the constituent entities of the merged bank.

"(b) REGULATIONS.—The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of the banks that form the merged bank are consolidated, and to the extent necessary, reconciled in the merged bank.

12 USC 2279a-3.

"SEC. 7.3. CAPITAL STOCK.

"(a) PLAN OF MERGER.—Subject to subsection (c), the number of shares of capital stock issued by a merged bank to stockholders and other owners of any institution involved in the merger, and the rights and privileges of such shares (including voting power, redemption rights, preferences on liquidation, and the right to dividends) shall be determined by the plan of merger adopted by the banks involved, and shall be consistent with section 4.3A and the regulations issued by the Farm Credit Administration.

101 STAT. 1646

"(b) BOARD OF DIRECTORS.—Subject to subsection (a), the number of shares of capital stock issued by a merged bank, and the rights and privileges thereof, shall be determined by the Board of Directors of the merged bank established under this subtitle.

"(c) VOTING STOCK.—Voting stock of a merged bank shall be held only—

"(1) by associations or cooperatives that were, immediately

prior to the merger, entitled to hold voting stock of one of the banks that merged; or

"(2) by farmers, ranchers, or producers or harvesters of aquatic products that are or were, immediately prior to the merger, direct borrowers from the merged bank or one of the banks that comprise the merged bank.

"SEC. 7.4. EARNINGS, RESERVES, AND DISTRIBUTIONS. 12 USC 2279a-4.

"(a) USE OF NET EARNINGS.—The Board of Directors of a merged bank shall determine the use or other application of net earnings after payment of operating expenses.

"(b) RESTORATION OF VALUE OF IMPAIRED CAPITAL STOCK.—Net earnings shall first be applied to restore the value of impaired capital stock.

"(c) OTHER USES.—After restoration, the application of net earnings may include (but not necessarily in the following order)—

"(1) additions to an allocated reserve account;

"(2) additions to an unallocated reserve account;

"(3) payment of a dividend on capital stock; and

"(4) payment of patronage refunds in cash or in stock or other notices of allocation.

"(d) USE OF CAPITAL AND RETAINED EARNINGS.—All capital and retained earnings of a merged bank shall be available for use in the activities of the merged bank as the Board of Directors shall determine, without regard to the activities giving rise to such earnings.

"SEC. 7.5. REPORTS BY MERGED BANKS FOR COOPERATIVES. 12 USC 2279a-5.

"(a) IN GENERAL.—When two or more banks for cooperatives merge, the resulting bank shall, not later than December 31 of each year of the succeeding 5 years following the date of the merger, file an annual report with the Farm Credit Administration that—

"(1) analyzes the effect of the merger;

"(2) includes a breakdown of loans outstanding according to the size of the cooperative stockholders of the bank; and

"(3) describes the adequacy of credit and other assistance services provided to smaller cooperatives.

"(b) AVAILABILITY.—A copy of the report required in subsection (a) shall be made available to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

101 STAT. 1647

"Subtitle B—Mergers, Transfers of Assets, and Powers of Associations Within a District

"Chapter 1—Transfers by Federal Land Banks to Federal Land Bank Associations

"SEC. 7.6. TRANSFER OF LENDING AUTHORITY. 12 USC 2279b.

"(a) ASSIGNMENTS.—A Federal land bank or a merged bank having a Federal land bank as one of its constituents, may assign to a Federal land bank association, and the association may assume, the authority of the transferring bank in the territorial area served by the association, to make and participate in long-term real estate mortgage loans under sections 1.6 through 1.9 if the assignment is approved by—

"(1) the Farm Credit Administration Board;

"(2) the Board of Directors of both institutions; and

"(3) a majority of the stockholders of the bank and of the association, in accordance with the voting provisions of sections 7.0 and 7.6.

"(b) DIRECT LOANS AND FINANCIAL ASSISTANCE.—After an assignment described in subsection (a)—

"(1) the Federal land bank association shall possess all of the

direct long-term real estate mortgage loan authority, formerly possessed by the transferring bank, in the territory served by the association; and

"(2) the Federal land bank may provide and extend financial assistance to, and discount for, or purchase from, the transferee Federal land bank association any note, draft, or other obligation with the endorsement or guarantee of the association, the proceeds of which have been advanced to persons eligible and for purposes of financing by the association under subsection (a).

"(c) REGULATIONS.—The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of the banks that make assignments or transfers are consolidated and, to the extent necessary, reconciled in the association referred to in subsection (a). Following a transfer or assignment under subsection (a), the provisions of section 4.3A shall be applicable to the association.

"Chapter 2—Merger of Like and Unlike Associations

12 USC 2279c. **"SEC. 7.7. MERGERS OF UNLIKE ASSOCIATIONS.**

"On the merger of one or more production credit associations with one or more Federal land bank associations, the bank supervising the Federal land bank association shall transfer all of its direct lending authority of the bank to such association under section 7.8.

12 USC 2279c-1. **"SEC. 7.8. MERGER OF ASSOCIATIONS.**

"(a) IN GENERAL.—Two or more associations within the same district, whether or not organized under the same title of this Act, may merge into a single entity (hereinafter in this title referred to as a 'merged association') if the plan of merger is approved by—

"(1) the Farm Credit Administration Board;

101 STAT. 1648 "(2) the boards of directors of the associations;

"(3) a majority of the shareholders of each association voting, in person or by proxy, at a duly authorized stockholders' meeting; and

"(4) the Farm Credit Bank.

"(b) POWERS, OBLIGATIONS, AND CONSOLIDATION.—

"(1) POWERS AND OBLIGATIONS.—Except as otherwise provided by this title, a merged association shall—

"(A) possess all powers granted under this Act to the associations forming the merged association; and

"(B) be subject to all of the obligations imposed under this Act on the associations forming the merged association.

Regulations. "(2) CONSOLIDATION.—The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of the associations that form the merged association are consolidated and, to the extent necessary, reconciled in the merged association. Following a merger under subsection (a), the provisions of section 4.3A shall be applicable to the merged association.

"(c) STOCK ISSUANCE.—

"(1) PLAN OF MERGER.—Subject to section 4.3A, the number of shares of capital stock issued by a merged association to the stockholders of any association forming such merged association, and the rights and privileges of such shares (including voting power, preferences on liquidation, and the right to dividends), shall be determined by the plan of merger adopted by the merged associations.

"(2) PLAN OF CAPITALIZATION.—The number of shares of capital stock, and the rights and privileges thereof, issued by a merged association after a merger shall be determined by the Board of Directors of the merged association, with the approval of the supervising bank, and shall be consistent with section 4.3A and the regulations issued by the Farm Credit Administration.

"(3) VOTING STOCK.—Voting stock of a merged association shall be issued to and held by farmers, ranchers, or producers or harvesters of aquatic products who are or were, immediately prior to the merger, direct borrowers from one of the associations forming the merged association or the supervising bank of such merged association.

"(d) CAPITALIZATION.—The plan of merger shall provide for the issuance, transfer, and retirement of stock and the distribution of earnings in accordance with the provisions of section 4.3A.

"SEC. 7.9. RECONSIDERATION. 12 USC 2279c-2.

"(a) PERIOD.—A stockholder vote in favor of—

"(1) the merger of districts under section 5.17(a)(2);

"(2) the merger of banks within a district under section 7.0;

"(3) the transfer of the lending authority of a Federal land bank or a merged bank having a Federal land bank as one of its constituents, under section 7.6;

"(5) the merger of two or more associations under section 7.8;

"(6) the termination of the status of an institution as a System institution under section 7.10; and

"(7) the merger of similar banks under section 7.13;

shall not take effect except in accordance with subsection (b).

"(b) RECONSIDERATION.— 101 STAT. 1649

"(1) NOTICE.—Not later than 30 days after a stockholder vote in favor of any of the actions described in subsection (a), the officer or employee that records such vote shall ensure that all stockholders of the voting entity receive notice of the final results of the vote.

"(2) EFFECTIVE DATE.—A voluntary merger, transfer, or termination that is approved by a vote of the stockholders of two or more banks or associations, shall not take effect until the expiration of 30 days after the date on which the stockholders of such associations are notified of the final result of the vote in accordance with paragraph (1).

"(3) PETITION FILED.—If a petition for reconsideration of a merger, transfer, or termination vote, signed by at least 15 percent of the stockholders of one or more of the affected banks or associations, is presented to the Farm Credit Administration within 30 days after the date of the notification required under paragraph (1)—

"(A) a voluntary merger, transfer, or termination shall not take effect until the expiration of 60 days after the date on which the stockholders were notified of the final result of the vote; and

"(B) a special meeting of the stockholders of the affected banks or associations shall be held during the period referred to in subparagraph (A) to reconsider the vote.

"(4) VOTE ON RECONSIDERATION.—If a majority of stockholders of any one of the affected banks or associations voting, in person or by written proxy, at a duly authorized stockholders' meeting, vote against the proposed merger, transfer, or termination, such action shall not take place.

"(5) FAILURE TO FILE PETITION.—If a petition for reconsideration of such vote is either not filed prior to the 60th day after the vote or, if timely filed, is not signed by at least 15 percent of the stockholders, the merger, transfer, or termination shall become effective in accordance with the plan of merger, transfer, or termination.

"(c) SPECIAL RECONSIDERATION.—

"(1) ISSUANCE OF REGULATIONS.—Notwithstanding any other provision of this Act, the Farm Credit Administration shall issue regulations under which the stockholders of any association that voluntarily merged with one or more associations after December 23, 1985, and before the date of the enactment of this section, may petition for the opportunity to organize as a separate association.

"(2) REQUIREMENTS.—The regulations issued by the Farm Credit Administration shall require that—

"(A) the petition be filed within 1 year after the date of the implementation of such regulations;

"(B) the petition be signed by at least 15 percent of the stockholders of any one of the associations that merged during the period;

"(C) the petition describe the territory in which the proposed separate association will operate;

"(D) if the petition is approved—

"(i) the loans of the members of the new association will be transferred from the current association to such new association;

101 STAT. 1650

"(ii) the stock, participation certificates, and other similar equities of the current association held by members of the new association will be retired at book value and the proceeds of such will be transferred to the new association, and an equivalent amount of stock, participation certificates, and other similar equities will be issued to the members by the new association; and

"(iii) the other assets of the current association will be distributed equitably among the current association and any resulting new association.

"(3) NOTIFICATION.—

"(A) IN GENERAL.—Not later than 30 days after the filing of the petition for organization, the current association shall notify its stockholders that a petition to establish the separate association has been filed.

"(B) CONTENTS.—The notification required under this paragraph shall contain—

"(i) the date of a special stockholders' meeting to consider the petition for organization; and

"(ii) an enumerated statement of the anticipated benefits and the potential disadvantages to such stockholders if the new association is established.

"(C) FCA APPROVAL.—

"(i) IN GENERAL.—All notifications under this paragraph shall be submitted to the Farm Credit Administration Board for approval prior to being distributed to the stockholders.

"(ii) AMENDING NOTIFICATION.—The Farm Credit Administration Board shall require that, prior to the distribution of the notification to the stockholders, the notification be amended as determined necessary by the Board to provide accurate information to the stockholders that will enable such stockholders to make an informed decision as to the advisability of establishing a new association.

"(D) SPECIAL STOCKHOLDERS' MEETING.—

"(i) TIMING OF MEETING.—The special stockholders' meeting to consider the petition shall be held within 60 days after the filing of the petition.

"(ii) APPROVAL.—If, at the special stockholders' meeting, a majority of the stockholders of the current association who would be served by the new association approve, by voting in person or by proxy, the establishment of the separate association, the Farm Credit Administration shall, within 30 days of such vote, issue a charter to the new association and amend the charter of the current association to reflect the territory to be served by the new association.

"Chapter 3—Termination and Dissolution of Institutions

"SEC. 7.10. TERMINATION OF SYSTEM INSTITUTION STATUS. 12 USC 2279d.

"(a) CONDITIONS.—A System institution may terminate the status of the institution as a System institution if— 101 STAT. 1651

"(1) the institution provides written notice to the Farm Credit Administration Board not later than 90 days prior to the proposed termination date;

"(2) the termination is approved by the Farm Credit Administration Board;

"(3) the appropriate Federal or State authority grants approval to charter the institution as a bank, savings and loan association, or other financial institution;

"(4) the institution pays to the Farm Credit Assistance Fund, as created under section 6.25, if the termination is prior to January 1, 1992, or pays to the Farm Credit Insurance Fund, if the termination is after such date, the amount by which the total capital of the institution exceeds, 6 percent of the assets;

"(5) the institution pays or makes adequate provision for payment of all outstanding debt obligations of the institution;

"(6) the termination is approved by a majority of the stockholders of the institution voting, in person or by written proxy, at a duly authorized stockholders' meeting, held prior to giving notice to the Farm Credit Administration Board; and

"(7) the institution meets such other conditions as the Farm Credit Administration Board by regulation considers appropriate.

"(b) EFFECT.—On termination of its status as a System institution—

"(1) the Farm Credit Administration Board shall revoke the charter of the institution; and

"(2) the institution shall no longer be an instrumentality of the United States under this Act.

"Subtitle C—Approval of Disclosure Information and Issuance of Charters by the Farm Credit Administration Board

"SEC. 7.11. APPROVAL OF DISCLOSURE INFORMATION AND ISSUANCE OF CHARTERS. 12 USC 2279e.

"(a) DISCLOSURE OF INFORMATION.—

"(1) APPROVAL OF PLAN.—With respect to any plan of merger, transfer or assignment of lending authority, dissolution, or termination, prior to submission to the voters (voting stockholders and, where required, contributors to guaranty funds) of such institutions, such plan shall be submitted to the Farm Credit Administration Board, together with all information that is to be distributed to the voters with respect to the contemplated action, including an enumerated statement of the anticipated benefits and potential disadvantages of such action.

"(2) NOTICE OF APPROVAL.—On notification that the Farm Credit Administration Board has approved such plan for submission to the stockholders, or after 30 days of no action on the plan by the Board, the submitting institutions may submit the plan, together with the disclosure information, to the voters for the prescribed vote.

"(b) NOTICE OF REASONS FOR DISAPPROVAL.—If the Farm Credit Administration Board disapproves the plan for submission to the stockholders, notification to the submitting institutions shall specify 101 STAT. 1652 the reasons for the determination by the Board. If such plan is determined to be inadequate, it shall not be submitted to the voters for a vote.

"(c) FEDERAL CHARTER.—Each plan of merger or transfer of lending authority may include a proposed new or revised Federal char-

ter for the merged or transferee entity. The Farm Credit Administration Board shall issue such charter on the approval of the plan, as prescribed in this title, unless the Board determines that the charter submitted is not consistent with this Act.

"Subtitle D—Mergers of Like Entities

12 USC 2279f.

"SEC. 7.12. MERGER OF SIMILAR BANKS.

"(a) IN GENERAL.—Banks organized or operating under this Act may merge with banks in other districts operating under the same title if the plan of merger is approved by—

"(1) the Farm Credit Administration Board;

"(2) the respective Boards of Directors of the banks involved;

"(3) a majority vote of the stockholders of each bank voting, in person or by proxy, at a duly authorized stockholders' meeting, with each association having a number of votes equal to the number of such association's voting stockholders; and

"(4) in the case of a bank for cooperatives, a majority of the total equity interests in such merging bank for cooperatives (including allocated, but not unallocated, surplus and reserves) held by those stockholders or subscribers to the guaranty fund of the bank voting.

"(b) PROCEDURES.—The provisions of sections 7.2 through 7.4 shall apply to banks merged under this section.

"(c) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—After a merger under subsection (a), a board of directors shall be created for the resulting bank.

"(2) COMPOSITION.—The board shall be composed of—

"(A) two directors elected by each of the bank boards, with at least one such director from each bank being elected by the eligible stockholders of, or subscribers to, the guaranty fund of the merging banks; and

"(B) one outside director elected by the members elected under subparagraph (A).

"(3) OUTSIDE DIRECTOR.—

"(A) QUALIFICATIONS.—The outside director elected under paragraph (2)(B) shall be experienced in financial services and credit, and within the 2-year period prior to such election, shall not have been a borrower from, shareholder in, or director, officer, employee, or agent of any institution of the Farm Credit System.

"(B) FAILURE TO ELECT.—If the other members of the board fail to elect an outside director, the Farm Credit Administration Board shall appoint a qualified person to serve on the board of directors until such member is so elected.

"(4) BYLAWS.—Notwithstanding paragraph (2), the bylaws of the merged bank may, with the approval of the Farm Credit Administration, provide for a different number of directors to be selected in a different manner, except that the bylaws shall provide for at least one outside director.

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12 USC 2279f-1.

"SEC. 7.13. MERGER OF SIMILAR ASSOCIATIONS.

"(a) IN GENERAL.—Associations may voluntarily merge with other like associations if the plan of merger is approved by—

"(1) the Farm Credit Administration Board;

"(2) the respective Boards of Directors of the associations involved;

"(3) a majority vote of the stockholders of each association voting, in person or by proxy, at a duly authorized stockholders' meeting; and

"(4) the Farm Credit Bank.

"(b) PROCEDURES.—The provisions of subsections (b), (c), and (d) of section 7.8 shall apply to associations merged under this section.".

SEC. 414. NONDISCRIMINATION. 12 USC 2252.

The second sentence of section 5.17(a)(2) (12 U.S.C. 2251(a)(2)) is amended by striking out "; and the Farm Credit Administration shall ensure" and all that follows through "discriminated against in the provision of any financial service and assistance" and inserting in lieu thereof ". The Farm Credit Administration Board shall ensure that disapproving associations (A) shall not be charged any assessment under this Act at a rate higher than that charged other like associations in the district, and (B) shall be provided with financial services and assistance on the same basis as other like associations in the district".

SEC. 415. CONFORMING AMENDMENTS.

(a) DISSOLUTION AND MERGER.—

(1) PART HEADING.—The part heading of part B of title IV (12 U.S.C. 2181 et seq.) is amended by striking out "AND MERGER".

(2) MERGER.—Section 4.10 (12 U.S.C. 2181) is repealed.

(3) BOARDS OF DIRECTORS.—Section 4.11 (12 U.S.C. 2182) is repealed.

(4) DISSOLUTION.—Section 4.12(a) (12 U.S.C. 2183(a)) is amended—

(A) by striking out the third sentence; and

(B) in the fourth sentence, by striking out "may require such merger" and inserting in lieu thereof "Board may require an association to merge with another association".

(b) ISSUANCE OF OBLIGATIONS.—Section 4.2(d) (12 U.S.C. 2174(d)) is amended by striking out "each of the 12 districts and the Central Bank for Cooperatives" and inserting in lieu thereof "each bank". 12 USC 2153.

(c) DISTRICT AND FARM CREDIT ADMINISTRATION ORGANIZATION.—Sections 5.1 through 5.6 (12 U.S.C. 2222-2227) are repealed.

(d) FARM CREDIT ADMINISTRATION POWERS.—Section 5.17(a)(2) (12 U.S.C. 2252(a)(2)) is amended—

(1) by striking out "; approve mergers of banks" and all that follows through "territories" and inserting in lieu thereof "approve mergers and any related activities as provided for in title VII; and the consolidation or division of the territories"; and

(2) by striking out "4.10" and inserting in lieu thereof "7.0".

Subtitle C—Other Restructuring Provisions

SEC. 420. COMMUNICATIONS WITH STOCKHOLDERS.

Part B of title IV (12 U.S.C. 2181 et seq.) is amended by adding at the end thereof the following new section: 101 STAT. 1654

"SEC. 4.12A. COMMUNICATIONS WITH STOCKHOLDERS. 12 USC 2184.

"(a) PROVISION OF STOCKHOLDER LISTS.—

"(1) IN GENERAL.—Within 7 days after receipt of a written request by a stockholder, a bank for cooperatives, Federal land bank association, or production credit association shall provide a current list of its stockholders to such requesting stockholder.

"(2) CONDITIONS.—As a condition of providing a stockholder list under paragraph (1), the bank or association may require that the stockholder agree and certify in writing that the stockholder will—

"(A) use the list exclusively for communicating with stockholders for permissible purposes; and

"(B) not make the list available to any person, other than the stockholder's attorney or accountant, without first obtaining the written consent of the institution.

"(b) ALTERNATIVE COMMUNICATIONS.—

"(1) REQUEST TO ISSUE.—As an alternative to receiving a list of stockholders, a stockholder may request the institution to mail or otherwise furnish to each stockholder a communication for a permissible purpose on behalf of the requesting stockholder.

"(2) WHEN PERMISSIBLE.—Alternative communications may be used, at the discretion of the requesting stockholder, if the

requester agrees to defray the reasonable costs of the communication. If the requester decides to exercise this option, the institution shall provide the requester with a written estimate of the costs of handling and mailing the communication as soon as is practicable after receipt of the stockholder's request to furnish the communication.".

SEC. 421. ELIGIBILITY TO BORROW FROM A BANK FOR COOPERATIVES.

Section 3.8 (12 U.S.C. 2129) is amended by striking out subsection (2) and inserting in lieu thereof the following new subsection:

"(b) Notwithstanding any other provision of this section:

"(1) The following entities shall also be eligible to borrow from a bank for cooperatives:

"(A) Cooperatives and other entities that have received a loan, loan commitment, or loan guarantee from the Rural Electrification Administration, or a loan or loan commitment from the Rural Telephone Bank, or that have been certified by the Administrator of the Rural Electrification Administration to be eligible for such a loan, loan commitment, or loan guarantee, and subsidiaries of such cooperatives or other entities.

"(B) Any legal entity more than 50 percent of the voting control of which is held by one or more associations or other entities that are eligible to borrow from a bank for cooperatives under subsection (a) or subparagraph (A) of this paragraph, except that any such legal entity, when considered together with one or more such associations or other entities that hold such control, meet the requirement of subsection (a)(3).

"(C) Any legal entity that (i) holds more than 50 percent of the voting control of an association or other entity that is eligible to borrow from a bank for cooperatives under subsection (a) or subparagraph (A) of this paragraph, and (ii) borrows for the purpose of making funds available to that association or entity, and make funds available to that association or entity under the same terms and conditions that the funds are borrowed from a bank for cooperatives.

101 STAT. 1655

"(2) Notwithstanding the provisions of section 3.9, the board of directors of a bank for cooperatives may determine that, with respect to a loan to any borrower eligible to borrow from a bank under paragraph (1)(A) that is fully guaranteed by the United States, no stock purchase requirement shall apply, other than the requirement that a borrower eligible to own voting stock shall purchase one share of such stock.

"(3) Each association and other entity eligible to borrow from a bank for cooperatives under this subsection, for purposes of section 3.7(a), shall be treated as an eligible cooperative association and a stockholder eligible to borrow from the bank.

"(4) Nothing in this subsection shall be construed to adversely affect the eligibility, as it existed on the date of the enactment of this subsection, of cooperatives and other entities for any other credit assistance under Federal law.".

SEC. 422. SALES OF INSURANCE BY SYSTEM INSTITUTIONS.

(a) IN GENERAL.—Section 4.29 (12 U.S.C. 2218) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after the subsection designation;

(B) by striking out "of this Act";

(C) by inserting "or borrower from" before "any such bank";

(D) by adding at the end thereof the following new sentence: "A member or borrower shall have the option, without coercion from the bank or association of such member or borrower, to accept or reject such insurance."; and

(E) by adding at the end thereof the following new paragraph:

"(2) In making insurance available through private insurers, the banks shall approve the programs of more than two insurers for each type of insurance offered in the district. The banks may provide comparative information relating to costs and quality of approved programs and the financial conditions of approved companies. Associations shall offer at least two insurers for each program from among those approved by the Federal intermediate credit banks."; and

(2) in paragraph (2) of subsection (b)—

(A) by redesignating clauses (i), (ii), and (iii), as subparagraphs (A), (B), and (C), respectively;

(B) by striking out "and" in subparagraph (B) as so redesignated;

(C) by striking out "and" in subparagraph (C) as so redesignated; and

(D) by adding at the end thereof the following new subparagraphs:

"(D) the insurance program has been approved by the bank or association from among specific programs made available to it by insurers—

"(i) meeting reasonable financial and quality of service standards; and

"(ii) licensed under State law to do business in the State; and

State and local governments.

"(E) in making insurance available through approved insurers, the board of directors of the association or bank selects and offers at least two approved insurers for each type of insurance made available to the members and borrowers; and".

101 STAT. 1656

(b) CONTINUATION OF PROGRAM.—Notwithstanding the amendments made to section 4.29 by subsection (a), any insurance program offered by any bank or association of the Farm Credit System on the date of the enactment of this Act that does not meet the requirements of section 4.29, as so amended, may be continued until July 1, 1988.

12 USC 2218 note.

SEC. 423. CIVIL MONEY PENALTIES.

(a) ASSESSMENT AUTHORITY.—Section 5.32(a) (12 U.S.C. 2268(a)) is amended by striking out "continues, but" and inserting in lieu thereof the following: "continues. Any such institution or person who violates any provision of this Act or any regulation issued under this Act shall forfeit and pay a civil penalty of not more than $500 per day for each day during which such violation continues. Notwithstanding the preceding sentences,".

(b) NOTIFICATION OF ALLEGED VIOLATORS.—Section 5.32(b) (12 U.S.C. 2268(b)) is amended by inserting after the subsection designation the following new sentence: "Before determining whether to assess a civil money penalty and determining the amount of such penalty, the Farm Credit Administration shall notify the institution or person to be assessed of the violation or violations alleged to have occurred or to be occurring, and shall solicit the views of the institution or person regarding the imposition of such penalty.".

(c) REVIEW OF FINAL ORDERS.—Section 5.32(d) (12 U.S.C. 2268(d)) is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "Final orders of the Farm Credit Administration issued under subsection (c) shall be reviewable under chapter 7 of title 5, United States Code.".

SEC. 424. LIMITATION ON FCA AUTHORITY TO REQUIRE DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—Section 5.17(a)(9) (12 U.S.C. 2252(a)(9)) is amended by inserting before the period the following: ", except that the Farm Credit Administration may not require any System institution to disclose in any report to stockholders information concerning the condition or classification of a loan—

"(A) to a director of the institution—

"(i) who has resigned before the time for filing the applicable report with the Farm Credit Administration; or

"(ii) whose term of office will expire no later than the date of the meeting of stockholders to which the report relates; or

"(B) to a member of the immediate family of a director of the institution unless—

"(i) the family member resides in the same household as the director; or

"(ii) the director has a material financial or legal interest in the loan or business operation of the family member.".

12 USC 2252 note.

(b) REGULATIONS.—Within 30 days after the date of the enactment of this Act, the Farm Credit Administration shall amend its regulations as necessary to implement the amendment made by subsection (a).

101 STAT. 1657

SEC. 425. REMOVAL OF CERTAIN SUNSET PROVISIONS; PROHIBITION AGAINST USE OF SIGNED BALLOTS.

Section 4.20 (12 U.S.C. 2208) is amended to read as follows:

"SEC. 4.20. PROHIBITION AGAINST USE OF SIGNED BALLOTS.

"In any election or merger vote, or other proceeding subject to a vote of the stockholders (or subscribers to the guaranty fund of a bank for cooperatives), conducted by a lending institution of the Farm Credit System, the institution—

"(1) may not use signed ballots; and

"(2) shall implement measures to safeguard the voting process for the protection of the right of stockholders (or subscribers) to a secret ballot.".

SEC. 426. FEDERAL LAND BANK LOAN SECURITY.

Section 1.9 (12 U.S.C. 2017) is amended to read as follows:

"SEC. 1.9. FEDERAL LAND BANK LOAN SECURITY.

"(a) MAXIMUM LEVEL OF LOANS.—

"(1) IN GENERAL.—Loans originated by a Federal land bank, or in which a Federal land bank participates in with a lender that is not a System institution, shall not exceed 85 percent of the appraised value of the real estate security, except as provided for in paragraphs (2) and (3).

"(2) REGULATION.—The Farm Credit Administration may, by regulation, require that loans not exceed 75 percent of the appraised value of the real estate security.

State and local governments.

"(3) GUARANTEED LOANS.—If the loan is guaranteed by Federal, State, or other governmental agencies, the loan may not exceed 97 percent of the appraised value of the real estate security, as may be authorized under regulations of the Farm Credit Administration.

"(b) SECURITY.—All loans originated or participated in by a bank under this section shall be secured by first liens on interests in real estate of such classes as may be approved by the Farm Credit Administration.

"(c) VALUE OF SECURITY.—To adequately secure the loan, the value of security shall be determined by appraisal under appraisal standards prescribed by the bank and approved by the Farm Credit Administration.

"(d) ADDITIONAL SECURITY.—Additional security for any loan may be required by the bank to supplement real estate security. Credit factors, other than the ratio between the amount of the loan and the security value, shall be given due consideration.

"(e) FINANCIAL STATEMENT.—Each Federal land bank shall require a financial statement from each borrower at least once every 3 years, or during such shorter period of time as may be required under regulations of the Farm Credit Administration.".

SEC. 427. AFFIRMATIVE ACTION.

Part F of title IV (12 U.S.C. 2219 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 4.37. AFFIRMATIVE ACTION.

Contracts.
12 USC 2219c.

The Assistance Board established under section 6.0 and all institutions of the Farm Credit System with more than 20 employees shall establish and maintain an affirmative action program plan that applies the affirmative action standards otherwise applied to contractors of the Federal Government.".

101 STAT. 1658

SEC. 428. ENCOURAGEMENT OF CONSERVATION PRACTICES.

Part F of title IV (12 U.S.C. 2219 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 4.38. ENCOURAGEMENT OF CONSERVATION PRACTICES.

12 USC 2219d.

"At the time a System institution or an agricultural mortgage loan originator (as defined in section 8.0(7)) approves a loan made to a borrower that, in the opinion of the institution or originator, would be ineligible for a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) by reason of subtitle B or C of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.), the institution or originator, as the case may be, shall encourage the borrower to contact the Department of Agriculture Soil Conservation Service to obtain information about soil conservation methods and practices.".

SEC. 429. UNIFORM FINANCIAL REPORTING INSTRUCTIONS.

Part B of title V is amended by inserting after section 5.22 (12 U.S.C. 2257) the following new section:

"SEC. 5.22A. UNIFORM FINANCIAL REPORTING INSTRUCTIONS.

12 USC 2257a.

"(a) IN GENERAL.—Each System institution shall comply with uniform financial reporting instructions required by the Farm Credit Administration, to standardize and facilitate the reporting of System data.

"(b) COMPUTERIZED SYSTEM.—If the financial reports are maintained by a computer system, each System institution may develop an internal computer system or it may contract out to a vendor under open competitive bidding any or all aspects of the computerized system.

"(c) SUBMISSION OF PROPOSAL.—Within 6 months of the date of the enactment of this section, each System institution shall submit to the Farm Credit Administration a report on the plan of that institution to bring the operations of the institution into compliance with the uniform financial reporting instructions required by the Farm Credit Administration.".

SEC. 430. COMPENSATION FOR DIRECTORS.

Section 5.5 (12 U.S.C. 2226) is amended by inserting before the period at the end thereof the following: "No director may receive compensation under this section during any year in a total amount exceeding $15,000.".

SEC. 431. FARM CREDIT ADMINISTRATION BOARD.

(a) RULES AND RECORDS.—Section 5.8(c) (12 U.S.C. 2242) is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "The Board shall adopt such rules as it deems appropriate for the transaction of business by the Board, and shall keep permanent and accurate records and minutes of the actions and proceedings of the Board.".

(b) CHAIRMAN.—Subsection (a) of section 5.10 (12 U.S.C. 2244(a)) is amended to read as follows:

"(a)(1) The Chairman of the Board shall be the chief executive officer of the Farm Credit Administration.

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"(2) In carrying out the responsibilities of the chief executive officer, the Chairman shall be responsible for directing the implementation of policies and regulations adopted by the Board and, after consultation with the Board, the execution of the administrative functions and duties of the Farm Credit Administration.

"(3) In carrying out policies as directed by the Board, the Chairman shall act as spokesperson for the Board and represent the Board and the Farm Credit Administration in their official relations within the Federal Government.

"(4) Under policies adopted by the Board, the Chairman shall consult on a regular basis with—

"(A) the Secretary of the Treasury concerning the exercise, by the System, of the powers conferred under section 4.2;

"(B) the Board of Governors of the Federal Reserve System concerning the effect of System lending activities on national monetary policy; and

"(C) the Secretary of Agriculture concerning the effect of System policies on farmers, ranchers, and the agricultural economy.".

(c) FUNCTIONS AND APPOINTMENTS.—Section 5.11 (12 U.S.C. 2245) is amended to read as follows:

"SEC. 5.11. ORGANIZATION OF THE FARM CREDIT ADMINISTRATION.

"(a) POLICIES OF THE BOARD.—The Chairman of the Farm Credit Administration Board, in carrying out the powers and duties vested in the Chairman by this Act, and Acts supplementary thereto, shall be governed by policies of the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make.

"(b) APPOINTMENTS.—The Chairman of the Board shall appoint such personnel as may be necessary to carry out the functions of the Farm Credit Administration The appointment by the Chairman of the heads of major administrative divisions under the Board shall be subject to the approval of the Board.

"(c) PERSONNEL.—

"(1) APPOINTMENTS BY BOARD MEMBERS.—Personnel employed regularly and full-time in the immediate offices of Board members shall be appointed by each such Board member.

"(2) OFFICERS AND EMPLOYEES.—The officers and employees of the agency shall be—

"(A) subject to the Ethics in Government Act of 1978 (2 U.S.C. 701 et seq.);

"(B) considered officers or employees of the United States for the purposes of sections 201 through 203, and sections 205 through 209, of title 18, United States Code; and

"(C) subject to section 5315 of title 5, United States Code.

"(3) DELEGATION.—The powers of the Chairman as chief executive officer necessary for day to day management may be exercised and performed by the Chairman through such other officers and employees of the Administration as the Chairman shall designate, except that the Chairman may not delegate powers specifically reserved to the Chairman by this Act without Board approval.

"(d) FUNDING.—The operations of the Farm Credit Administration, and the salaries of members of the Board and employees of the Administration, shall be funded and paid for from the fund created under section 5.15.".

101 STAT. 1660

(d) ADVISORY COMMITTEES.—Section 5.12 (12 U.S.C. 2246) is amended by inserting ", subject to the approval of the Board," after "Chairman of the Board".

12 USC 2252.

(e) POWERS.—Section 5.17(a) (12 U.S.C. 2251(a)) is amended—

(1) in paragraph (2), by striking out the last sentence and inserting in lieu thereof the following new sentence: "The Farm Credit Administration Board, after consultation with the respective boards of directors of the affected banks, may require two or more banks operating under the same or different titles

to merge if the Board determines that one of such banks has failed to meet its outstanding obligations."; and

(2) in paragraph (15)—

(A) by inserting "by the Board" after "determined"; and

(B) by adding at the end thereof the following new sentence: "The Board may not delegate its responsibilities under this paragraph.".

(f) SPECIAL DISTRICT RULE.—Section 2.15 (12 U.S.C. 2096) is amended by adding at the end thereof the following new subsection:

"(c)(1) On request, the Farm Credit Administration Board may permit a production credit association, located in a district in which there are no more than three such associations, notwithstanding any territorial limitation in the charter of such association, to provide credit and technical assistance to any borrower who is denied credit by a production credit association that—

"(A) has an adjoining service territory; and

"(B) is located in the same district,

if the Board determines that one of the production credit associations in the district is unduly restrictive in the application of credit standards.

"(2) If the Farm Credit Administration Board approves the extension of credit and technical assistance under paragraph (1), the association shall approve or deny the application for credit within 90 days after the receipt of the application from the borrower.".

(g) CONFORMING AMENDMENT.—Section 4.12 (12 U.S.C. 2183) is amended by inserting "Board" after "Farm Credit Administration" each place it appears in subsection (b) other than in clause (5) of the first sentence.

SEC. 432. FARM CREDIT ADMINISTRATION ORGANIZATION.

(a) OPERATING EXPENSES FUND.—Section 5.15 (12 U.S.C. 2249) is amended to read as follows:

"SEC. 5.15. FARM CREDIT ADMINISTRATION OPERATING EXPENSES FUND. 12 USC 2250.

"(a) DETERMINATIONS REQUIRED.—

"(1) GENERALLY.—Prior to the first day of each fiscal year, the Farm Credit Administration shall determine—

"(A) the cost of administering this Act for the subsequent fiscal year, including expenses for official functions;

"(B) the amount of assessments that will be required to pay such administrative expenses, taking into consideration the funds contained in the Administrative Expense Account, and maintain a necessary reserve; and

"(C) the amount of assessments that will be required to pay the costs of supervising and examining the Mortgage Corporation established under title VIII. 101 STAT. 1661

"(2) APPORTIONMENTS.—On the basis of the determinations made under paragraph (1), the Farm Credit Administration shall—

"(A) apportion the amount of such assessment among the System institutions on a basis that is determined to be equitable by the Farm Credit Administration;

"(B) assess and collect such apportioned amounts from time to time during the fiscal year as determined necessary by the Farm Credit Administration; and

"(C) assess and collect from the Mortgage Corporation, from time to time during the fiscal year, the amount specified in paragraph (1)(C).

"(b) DEPOSITS INTO FUND.—

"(1) TREASURY FUND.—The amounts collected under subsection (a) shall be deposited in the Farm Credit Administration Administrative Expense Account. The Expense Account shall be maintained in the Treasury of the United States and shall be available, without regard to the Balanced Budget and Emer-

gency Deficit Control Act of 1985 (2 U.S.C. 901 note) or any other law, to pay the expenses of the Farm Credit Administration.

"(2) NONGOVERNMENT FUNDS.—The funds contained in the Expense Account shall not be construed to be Federal Government funds or appropriated moneys.

"(3) INVESTMENT.—

"(A) AUTHORITY.—On request of the Farm Credit Administration, the Secretary of the Treasury shall invest and reinvest such amounts contained in the Expense Account as, in the determination of the Farm Credit Administration, are in excess of the amounts necessary for current expenses of the Farm Credit Administration.

"(B) RETURNS.—All income earned from such investments and reinvestments shall be deposited in the Expense Account.

"(C) TYPE.—Such investments shall be made in public debt securities with maturities suitable to the needs of the Expense Account, as determined by the Farm Credit Administration, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.".

12 USC 2254.

(b) EXAMINATION OF FEDERAL LAND BANK ASSOCIATIONS.—Section 5.19(a) (12 U.S.C. 2253(a)) is amended—

(1) in the first sentence, by striking out "Each" and inserting in lieu thereof "Except for Federal land bank associations, each";

(2) by inserting after the first sentence the following new sentence: "Each Federal land bank association shall be examined by Farm Credit Administration examiners at such times as the Farm Credit Administration Board may determine, except that each such association shall be examined at least once every 5 years."; and

(3) by striking out "the Chairman of" each place it appears in such subsection.

(c) POWER TO REMOVE DIRECTORS AND OFFICERS.—Part C of title V (12 U.S.C. 2260) is amended by adding at the end thereof the following new section:

101 STAT. 1662

12 USC 2274.

"SEC. 5.38. POWER TO REMOVE DIRECTORS AND OFFICERS.

"Notwithstanding any other provision of this Act, a farm credit district board, bank board, or bank officer or employee shall not remove any director or officer of any production credit association or Federal land bank association.".

12 USC 2071 note.

SEC. 433. REASSIGNMENT OF ASSOCIATIONS TO ADJOINING DISTRICTS.

(a) PETITION OF BANK.—Notwithstanding any other provision of this Act, effective for the 12-month period beginning on the date of enactment of the Agricultural Credit Act of 1987, each Federal land bank association or production credit association, whose chartered territory adjoins the territory of another district, may petition the Farm Credit Administration to amend the charters of the association and the adjoining district bank to provide that the territory of the association is part of the adjoining district.

(b) REQUIREMENTS OF PETITION.—To be considered under this section, the petition must be signed by not less than 15 percent of the stockholders of the association. Only one such petition may be filed by an association under this subsection.

(c) FCA ACTION.—The Farm Credit Administration shall take any action necessary—

(1) to amend the charters of the association and the district bank; and

(2) to incorporate the petitioning association into the adjoining district if the reassignment is approved by—

(A) a majority of the stockholders of the association

voting, in person or by proxy, at a duly authorized stockholders' meeting held for such purpose;

(B) the board of directors of such adjoining district;

(C) the Assistance Board; and

(D) the Farm Credit Administration Board.

SEC. 424. CONFORMING AMENDMENT.

Effective 6 months after the date of the enactment of this Act, section 1.2 (12 U.S.C. 2002) is amended to read as follows:

"SEC. 1.2. THE FARM CREDIT SYSTEM.

"The Farm Credit System shall include the the Farm Credit Banks, the Federal land bank associations, the production credit associations, the banks for cooperatives, and such other institutions as may be made a part of the System, all of which shall be chartered by and subject to the regulation by the Farm Credit Administration.".

TITLE V—STATE MEDIATION PROGRAMS

Subtitle A—Matching Grants for State Mediation Programs

SEC. 501. QUALIFYING STATES. 7 USC 5101.

(a) IN GENERAL.—A State is a qualifying State if the Secretary of Agriculture (hereinafter in this subtitle referred to as the "Secretary") determines that the State has in effect an agricultural loan mediation program that meets the requirements of subsection (c). 101 STAT. 1663

(b) DETERMINATION BY SECRETARY.—Within 15 days after the Secretary receives from the Governor of a State, a description of the agricultural loan mediation program of the State and a statement certifying that the State has met all of the requirements of subsection (c), the Secretary shall determine whether the State is a qualifying State.

(c) REQUIREMENTS OF STATE PROGRAMS.—Within 15 days after the Secretary receives a description of a State agricultural loan mediation program, the Secretary shall certify the State as a qualifying State if the State program—

(1) provides for mediation services to be provided to producers, and their creditors, that, if decisions are reached, result in mediated, mutually agreeable decisions between parties under an agricultural loan mediation program;

(2) is authorized or administered by an agency of the State government or by the Governor of the State;

(3) provides for the training of mediators;

(4) provides that the mediation sessions shall be confidential; and

(5) ensures that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program.

SEC. 502. MATCHING GRANTS TO STATES. 7 USC 5102.

(a) MATCHING GRANTS.—Within 60 days after the Secretary certifies the State as a qualifying State under section 501(b), the Secretary shall provide financial assistance to the State, in accordance with subsection (b), for the operation and administration of the agricultural loan mediation program.

(b) AMOUNT OF GRANT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall pay to a State under subsection (a) not more than 50 percent of the cost of the operation and administration of the agricultural loan mediation program within the State.

(2) MAXIMUM AMOUNT.—The Secretary shall not pay more than $500,000 per year to a single State under subsection (a).

(c) USE OF GRANT.—Each State that receives an amount paid under subsection (a) shall use that amount only for the operation and administration of the agricultural loan mediation program of the State.

(d) PENALTY.—If the Secretary determines that a State has not complied with subsection (c), such State shall not be eligible for additional financial assistance under this subtitle.

7 USC 5103.

SEC. 503. PARTICIPATION OF FEDERAL AGENCIES.

(a) DUTIES OF THE SECRETARY OF AGRICULTURE.—

(1) IN GENERAL.—The Secretary, with respect to each program under the jurisdiction of the Secretary that makes, guarantees, or insures agricultural loans—

Regulations.

(A) shall prescribe rules requiring each such program to participate in good faith in any State agricultural loan mediation program;

(B) shall, on the date of the enactment of this Act, participate in agricultural loan mediation programs; and

(C) shall—

(i) cooperate in good faith with requests for information or analysis of information made in the course of mediation under any agricultural loan mediation program described in section 501; and

101 STAT. 1664

(ii) present and explore debt restructuring proposals advanced in the course of such mediation.

(2) NONBINDING ON SECRETARY.—The Secretary shall not be bound by any determination made in a program described in paragraph (1) if the Secretary has not agreed to such determination.

Regulations.

(b) DUTIES OF THE FARM CREDIT ADMINISTRATION.—The Farm Credit Administration shall prescribe rules requiring the institutions of the Farm Credit System—

(1) to cooperate in good faith with requests for information or analysis of information made in the course of mediation under any agricultural loan mediation program described in section 501; and

(2) to present and explore debt restructuring proposals advanced in the course of such mediation.

7 USC 5104.

SEC. 504. REGULATIONS.

Within 150 days after the date of the enactment of this Act, the Secretary and the Farm Credit Administration shall prescribe such regulations as may be necessary to carry out this subtitle.

7 USC 5105.

SEC. 505. REPORT.

Not later than January 1, 1990, the Secretary of Agriculture shall report to Congress on—

(1) the effectiveness of the State agricultural loan mediation programs receiving matching grants under this subtitle;

(2) recommendations for improving the delivery of mediation services to producers; and

(3) the savings to the States as a result of having an agricultural loan mediation program.

7 USC 5106.

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $7,500,000 for each of the fiscal years 1988 through 1991.

Subtitle B—Waiver of Mediation Rights

SEC. 511. WAIVER OF MEDIATION RIGHTS BY FARM CREDIT SYSTEM BORROWERS.

Part C of Title IV (12 U.S.C. 2151 et seq.) is amended by inserting after the section added by section 107 the following new section:

"SEC. 4.14E. WAIVER OF MEDIATION RIGHTS BY BORROWERS. 12 USC 2202e.

"No System institution may make a loan secured by a mortgage or lien on agricultural property to a borrower on the condition that the borrower waive any right under the agricultural loan mediation program of any State.".

SEC. 512. WAIVER OF MEDIATION RIGHTS BY FMHA BORROWERS.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 619 of this Act the following new section: 101 STAT. 1665

"SEC. 358. WAIVER OF MEDIATION RIGHTS BY BORROWERS. 7 USC 2006.

"The Secretary may not make, insure, or guarantee any farmer program loan to a farm borrower on the condition that the borrower waive any right under the agricultural loan mediation program of any State.".

TITLE VI—FARMERS HOME ADMINISTRATION LOANS

SEC. 601. AMENDMENT OF CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

SEC. 602. DEFINITIONS.

Section 343 (7 U.S.C. 1991) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) As used in sections 307(e), 331D, 335 (e) and (f), 338(f), 351(h), 352 (b) and (c), 353, and 357:

"(1) The term 'borrower' means any farm borrower who has outstanding obligations to the Secretary under any farmer program loan, without regard to whether the loan has been accelerated, but does not include any farm borrower all of whose loans and accounts have been foreclosed on or liquidated, voluntarily or otherwise.

"(2) The term 'loan service program' means, with respect to a farmer program borrower, a primary loan service program or a preservation loan service program.

"(3) The term 'primary loan service program' means—

"(A) loan consolidation, rescheduling, or reamortization;

"(B) interest rate reduction, including the use of the limited resource program;

"(C) loan restructuring, including deferral, set aside, or writing down of the principal or accumulated interest charges, or both, of the loan; or

"(D) any combination of actions described in subparagraphs (A), (B), and (C).

"(4) The term 'preservation loan service program' means—

"(A) homestead retention as authorized under section 352; and

"(B) a leaseback or buyback of farmland authorized under section 335.".

SEC. 603. SECURITY FOR FMHA REAL ESTATE LOANS.

Section 307(c) (7 U.S.C. 1927(c)) is amended by adding at the end thereof the following new sentence: "A borrower may use the same collateral to secure two or more loans made, insured, or guaranteed under this subtitle, except that the outstanding amount of such loans may not exceed the total value of the collateral so used.".

101 STAT. 1666

SEC. 604. ADDITIONAL COLLATERAL.

Section 307 (7 U.S.C. 1927) is amended by adding at the end thereof the following new subsection:

"(e) The Secretary may not—

"(1) require any borrower to provide additional collateral to secure a farmer program loan made or insured under this title, if the borrower is current in the payment of principal and interest on the loan; or

"(2) bring any action to foreclose, or otherwise liquidate, any such loan as a result of the failure of a borrower to provide additional collateral to secure a loan, if the borrower was current in the payment of principal and interest on the loan at the time the additional collateral was requested.".

SEC. 605. NOTICE OF LOAN SERVICE PROGRAMS.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by inserting after section 331C the following new section:

7 USC 1981d.

"SEC. 331D. NOTICE OF LOAN SERVICE PROGRAMS.

"(a) REQUIREMENT.—The Secretary shall provide notice by certified mail to each borrower who is at least 180 days delinquent in the payment of principal or interest on a loan made or insured under this title.

"(b) CONTENTS.—The notice required under subsection (a) shall—

"(1) include a summary of all primary loan service programs, preservation loan service programs, and appeal procedures, including the eligibility criteria, and terms and conditions of such programs and procedures;

"(2) include a summary of the manner in which the borrower may apply, and be considered, for all such programs, except that the Secretary shall not require the borrower to select among such programs or waive any right in order to be considered for any program carried out by the Secretary;

"(3) advise the borrower regarding all filing requirements and any deadlines that must be met for requesting loan servicing;

"(4) provide any relevant forms, including applicable response forms;

"(5) advise the borrower that a copy of regulations is available on request; and

"(6) be designed to be readable and understandable by the borrower.

"(c) CONTAINED IN REGULATIONS.—All notices required by this section shall be contained in the regulations implementing this title.

"(d) TIMING.—The notice described in subsection (b) shall be provided—

"(1) at the time an application is made for participation in a loan service program;

"(2) on written request of the borrower; and

"(3) before the earliest of—

"(A) initiating any liquidation;

"(B) requesting the conveyance of security property;

"(C) accelerating the loan;

"(D) repossessing property;

"(E) foreclosing on property; or

"(F) taking any other collection action.

101 STAT. 1667

"(e) CONSIDERATION OF BORROWERS FOR LOAN SERVICE PROGRAMS.—The Secretary shall consider a farmer program borrower for all loan service programs if, within 45 days after receipt of the notice required in this section, the borrower requests such consideration in writing. In considering a borrower for loan service programs, the Secretary shall place the highest priority on the preservation of the borrower's farming operations.".

SEC. 606. PLANTING AND PRODUCTION HISTORY GUIDELINES.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by inserting after the section added by section 605 of this Act the following new section:

"SEC. 331E. PLANTING AND PRODUCTION HISTORY GUIDELINES.

State and local governments. Disaster assistance. 7 USC 1981e.

"The Secretary shall ensure that appropriate procedures, including to the extent practicable onsite inspections, or use of county or State yield averages, are used in calculating future yields for an applicant for a loan, when an accurate projection cannot be made because the applicant's past production history has been affected by natural disasters declared under the Disaster Relief Act of 1974.".

SEC. 607. COUNTY COMMITTEES.

Section 332(a) (7 U.S.C. 1982(a)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in the second sentence, by striking out "deriving the principal part of their income from farming";

(3) by inserting before the period at the end thereof the following: "before conducting any county committee election. The Secretary shall publish any regulation promulgated under this subsection"; and

Regulations.

(4) by adding at the end thereof the following new paragraphs:

"(2) The Secretary shall ensure that farmers have—

"(A) at least 45 days to submit nominations following general public notice of any procedure by which to submit nominations for county committee elections in each county; and

"(B) at least 30 days after general public notice of an election in each county, before the election is held.

"(3) Any farmer eligible for a loan made or insured under subtitle A shall be eligible to serve as an elected or appointed county committee member, subject to section 336(c).

"(4) Not more than one farmer eligible for a loan made or insured under subtitle A may serve on a county committee at the same time.

"(5) For purposes of this subsection, the term 'farmer' shall include the spouse of a farmer otherwise eligible under this section.".

SEC. 608. ADMINISTRATIVE APPEALS.

Section 333B (7 U.S.C. 1983b) is amended by adding at the end thereof the following new subsections:

"(d) The Secretary shall establish and maintain within the Farmers Home Administration a national appeals division, which shall consist of a director, hearing officers, and such other personnel necessary to the administration of the division, all of whom shall be employees of the Farmers Home Administration who shall have no duties other than hearing and determining formal appeals arising under this section.

"(e)(1) Hearing officers within the appeals division in a State shall hear and determine all formal appeals of decisions which are subject to this section and are made by county supervisors, county committees, district directors, State directors, or other employees of the Secretary working in the State. Such hearings shall be held in the State of residence of the appellant. The decisions of hearing officers shall, on the request and election of the borrower, be reviewed by the State director of the State of residence of the appellant or shall be referred directly to the director of the national appeals division. If the borrower elects review by the State director, the decisions of the State director shall, on request of the borrower, be subject to further review by the director of the national appeals division.

101 STAT. 1668

"(2) Each hearing before a hearing officer in the appeals division shall be recorded verbatim by voice recorder, stenographer, or other method, and a transcript of the hearing, together with all documents and evidence submitted, shall be made available to the appellant, on request, if the decision of the hearing officer is appealed. The record of the hearing shall consist of copies of all documents and other evidence presented to the hearing officer and the transcript of the hearing.

"(3) If a decision of a hearing officer is appealed, the hearing officer shall certify the record and deliver or otherwise provide the certified record to the director of the national appeals division and

the Secretary. The national appeals division shall base its review of the hearing on the transcript of the hearing and the evidence presented to the hearing officer.

"(f) All hearing officers within the national appeals division shall report to the principal officers of the division, and shall not be under the direction or control of, or receive administrative support (except on a reimbursable basis) from, offices other than the national appeals division.

"(g) The Secretary shall ensure that the national appeals division has resources and personnel adequate to hear and determine all initial appeals in the State of residence of the appellant on a timely basis, and that hearing officers receive training and retraining adequate for their duties on initial employment and at regular intervals thereafter. The Secretary may expend sums available in the Farmers Home Administration's various revolving insurance funds for the purposes of this subsection in the event that necessary appropriations sufficient to fund the division are not available.".

7 USC 1983c.

SEC. 609. BORROWERS' RIGHT TO INFORMATION.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by inserting after section 333B the following new section:

"SEC. 333C. PROVISION OF INFORMATION TO BORROWERS.

"(a) IN GENERAL.—On request of a farm borrower of a farmer program loan, the Secretary shall make available to the borrower the following:

"(1) One copy of each document signed by the borrower.

"(2) One copy of each appraisal performed with respect to the loan.

"(3) All documents that the Secretary otherwise is required to provide to the borrower under any law or rule of law in effect on the date of such request.

"(b) CONSTRUCTION OF SECTION.—Subsection (a) shall not be construed to supersede any duty imposed on the Secretary by any law or rule of law in effect immediately before the date of the enactment of this section, unless such duty is in direct conflict with any duty imposed by subsection (a).".

101 STAT. 1669

SEC. 610. DISPOSITION AND LEASING OF FARMLAND.

(a) CLASSIFICATION OF PROPERTY.—Section 335(c) (7 U.S.C. 1985(c)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by inserting after the first sentence the following new sentence: "The County Committee shall classify or reclassify real property (including real property administered by the Secretary on the date of the enactment of this sentence) that is farmland, as being suitable for farming operation for such disposition unless the property, including property subdivided in accordance with subsection (e)(5), cannot be used to meet any of the purposes of section 303 (including being used as a start-up or add-on parcel of farmland)."; and

(3) by adding at the end thereof the following new paragraph:

Contracts.

"(2) Notwithstanding any other provision of law, the Secretary shall sell suitable farmland administered under this subtitle to operators (as of the time immediately after such contract for sale or lease is entered into) of not larger than family sized farms, as determined by the county committee. In selling such land, the county committee shall—

"(A) grant a priority to persons eligible for loans under subtitle A, including individuals approved for, but who, as of the date of the enactment of this paragraph, have not yet received, such loans;

"(B) offer suitable land at a price not greater than that which reflects the appraised market value of such land;

"(C) select from among qualified applicants the applicant who has the greatest need for farm income and best meets the criteria for eligibility to receive loans under subtitle A; and

"(D) publish or caused to be published three consecutive weekly announcements at least twice annually of the availability of such farmland, in at least one newspaper that is widely circulated in the county in which the land is located until the property is sold.". Public information.

(b) DISPOSITION AND LEASING.—Section 335(e) (7 U.S.C. 1985(e)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1)(A)(i) During the 180-day period beginning on the date of acquisition, or during the applicable period under State law, the Secretary shall allow the borrower from whom the Secretary acquired real property used to secure any loan made to the borrower under this title (hereinafter referred to in this paragraph as the 'borrower-owner') to purchase or lease such property.

"(ii) The period for the purchase or lease of real property described under clause (i), by a person described in clauses (i) or (ii) of subparagraph (C), shall expire 190 days after the date of acquisition, or after the applicable period under State law.

"(iii) The rights regarding the purchase or lease of real property provided by this paragraph and accorded a person described in subparagraph (C) may be freely and knowingly waived by such person.

"(B) Any purchase or lease under subparagraph (A) shall be on such terms and conditions as are established in regulations promulgated by the Secretary.

101 STAT. 1670

"(C) The Secretary shall give preference in the sale or lease, with option to purchase, of property that has been foreclosed, purchased, redeemed, or otherwise acquired by the Secretary to persons in the following order:

"(i) The immediate previous borrower-owner of the acquired property.

"(ii) If actively engaged in farming—

"(I) the spouse or child of the previous borrower-owner; or

"(II) a stockholder in the corporation, if the borrower-owner is a corporation held exclusively by members of the same family.

"(iii) The immediate previous family size farm operator of such acquired property.

"(iv) Operators (as of the time immediately after such sale or lease is entered into) of not larger than family-size farms.

"(D)(i) If— Indians.

"(I) the real property described in subparagraph (A)(i) is located within an Indian reservation,

"(II) the borrower-owner is the Indian tribe that has jurisdiction over the reservation in which the real property is located or the borrower-owner is a member of such Indian tribe, and

"(III) the period in which the right to purchase or lease such real property provided in clauses (i) and (ii) of subparagraph (A) has expired,

the Secretary shall dispose of or administer the property only as provided for in this subparagraph.

"(ii) For purposes of this subparagraph, the term 'Indian reservation' means all land located within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; trust or restricted land located within the boundaries of a former reservation of a federally recognized Indian tribe in the State of Oklahoma; or all Indian allotments the Indian titles to which have not been extinguished if such allotments are subject to the jurisdiction of a federally recognized Indian tribe.

"(iii) The Secretary shall, within 90 days after the expiration of the period for which the right to purchase or lease real property described in clause (i) is provided in clauses (i) and (ii) of subparagraph (A), afford an opportunity to purchase or lease the real property in accordance with the order of priority established under clause (iv) by the Indian tribe having jurisdiction over the Indian reservation within which the real property is located or, if no order of priority is established by such Indian tribe under clause (iv), in the following order:

"(I) to an Indian member of the Indian tribe that has jurisdiction over the reservation within which the real property is located;

"(II) to an Indian corporate entity;

"(III) to such Indian tribe.

"(iv) The governing body of any Indian tribe having jurisdiction over an Indian reservation may revise the order of priority provided in clause (iii) under which lands located within such reservation shall be offered for purchase or lease by the Secretary under clause (iii) and may restrict the eligibility for such purchase or lease to—

101 STAT. 1671

"(I) persons who are members of such Indian tribe,

"(II) Indian corporate entities that are authorized by such Indian tribe to lease or purchase lands within the boundaries of such reservation, or

"(III) such Indian tribe itself.

"(v) If real property described in clause (i) is not purchased or leased under clause (iii) and the Indian tribe having jurisdiction over the reservation within which the real property is located is unable to purchase or lease the real property, the Secretary shall transfer the real property to the Secretary of the Interior who shall administer the real property as if the real property were held in trust by the United States for the benefit of such Indian tribe. From the rental income derived from the lease of the transferred real property, and all other income generated from the transferred real property, the Secretary of the Interior shall pay those State, county, municipal, or other local taxes to which the transferred real property was subject at the time of acquisition by the Secretary, until the earlier of—

Contracts.
State and local governments.
Taxes.

"(I) the expiration of the 4-year period beginning on the date on which the real property is so transferred, or

"(II) such time as the lands are transferred into trust pursuant to clause (viii).

"(vi) At any time any real property is transferred to the Secretary of the Interior under clause (v), the Secretary of Agriculture shall be deemed to have no further responsibility under this Act for collection of any amounts with regard to the farm program loan which had been secured by such real property, nor with regard to any lien arising out of such loan transaction, nor for repayments of any amount with regard to such loan transactions or liens to the Treasury of the United States, and the Secretary of the Interior shall be deemed to have succeeded to all right, title and interest of the Secretary of Agriculture in such real estate arising from the farm program loan transaction, including the obligation to remit to the Treasury of the United States, in repayment of the original loan, those amounts provided in clause (vii).

"(vii) After the payment of any taxes which are required to be paid under clause (v), all remaining rental income derived from the lease of the real property transferred to the Secretary of the Interior under clause (v), and all other income generated from the real property transferred to the Secretary of the Interior under clause (v), shall be deposited as miscellaneous receipts in the Treasury of the United States until the amount deposited is equal to the lesser of—

"(I) the amount of the outstanding lien of the United States against such real property, as of the date the real property was acquired by the Secretary;

"(II) the fair market value of the real property, as of the date of the transfer to the Secretary of the Interior; or

"(III) the capitalized value of the real property, as of the date of the transfer to the Secretary of the Interior.

"(viii) When the total amount that is required to be deposited under clause (vii) with respect to any real property has been deposited into the Treasury of the United States, title to the real property shall be held in trust by the United States for the benefit of the Indian tribe having jurisdiction over the Indian reservation within which the real property is located.

"(ix) Notwithstanding any other clause of this subparagraph, the Indian tribe having jurisdiction over the Indian reservation within which the real property described in clause (i) is located may, at any time after the real property has been transferred to the Secretary of the Interior under clause (v), offer to pay the remaining amount on the lien, or the fair market value of the real property, whichever is less. Upon payment of such amount, title to such real property shall be held by the United States in trust for the tribe and such trust or restricted lands that have been acquired by the Secretary under foreclosure or voluntary transfer under a loan made or insured under this title and transferred to an Indian person, entity, or tribe under the provisions of this subparagraph shall be deemed to have never lost trust or restricted status. 101 STAT. 1672

"(E) The rights provided in this subsection shall be in addition to any such right of first refusal under the law of the State in which the property is located.";

(2) in paragraph (3)—

(A) by striking out subparagraph (A);

(B) by redesignating subparagraphs (B), (C), and (D), as subparagraphs (A), (B), and (C), respectively;

(C) in subparagraph (B) (as so redesignated), by striking out "give special consideration to a previous owner or operator of such land if such owner or operator" and inserting in lieu thereof "determine if the lessee"; and

(D) by adding at the end thereof the following new subparagraph:

"(D) The Secretary may enter into a contract with a borrower of a farmer program loan made or insured under this title, to provide for the subsequent sale or lease of land that will be acquired from the borrower in the future, before the Secretary takes possession of such land."; Contracts.

(3) by amending subparagraph (A) of paragraph (5) to read as follows:

"(A) If the Secretary determines that farmland administered under this chapter is not suitable for sale or lease to persons eligible for a loan made or insured under subtitle A because such farmland is in a tract or tracts that the Secretary determines to be larger than that necessary for such eligible persons, the Secretary shall, to the greatest extent practicable, subdivide such land into tracts suitable for sale under subsection (c). Such land shall be subdivided into parcels of land the shape and size of which are suitable for farming, the value of which shall not exceed the individual loan limits as prescribed under section 305.";

(4) in paragraph (6)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) provide written notice reasonably calculated to inform the immediate previous owner or immediate previous family-size farm operator of such farmland, of the availability of such farmland."; and

(5) by adding at the end thereof the following new paragraphs:

"(9) Denials of applications for or disputes over terms and conditions of a lease or purchase agreement under this section are appealable under section 333B.

"(10) In the event of any conflict between any provision of this
101 STAT. 1673 subsection and any provision of the law of any State providing a right of first refusal to the owner of farmland or the operator of a farm before the sale or lease of land to any other person, such provision of State law shall prevail.".

SEC. 611. INCOME RELEASE.

Subsection (f) of section 335 (7 U.S.C. 1985(f)) is amended to read as follows:

"(f)(1) As used in this subsection, the term 'normal income security' means all security not considered basic security, including crops, livestock, poultry products, Agricultural Stabilization and Conservation Service payments and Commodity Credit Corporation payments, and other property covered by Farmers Home Administration liens that is sold in conjunction with the operation of a farm or other business, but shall not include any equipment (including fixtures in States that have adopted the Uniform Commercial Code), or foundation herd or flock, that is the basis of the farming or other operation, and is the basic security for a Farmers Home Administration farmer program loan.

"(2) The Secretary shall release from the normal income security provided for such loan an amount sufficient to pay for the essential household and farm operating expenses of the borrower, until such time as the Secretary accelerates such loan.

"(3) A borrower whose account was accelerated on or after November 1, 1985, and on or before May 7, 1987, but not thereafter foreclosed on or liquidated, shall be entitled to the release of security income for a period of 12 months, to pay the essential household and farm operating expenses of such borrower in an amount not to exceed $18,000 over 12 months, if such borrower—

"(A) as of October 30, 1987, continued to be actively engaged in the farming operations for which the Secretary had made the farmer program loan; and

"(B) as of the deadline for responding to the notice provided for under paragraph (5), requests restructuring of such loans pursuant to section 353.

"(4) The county committee in the county in which borrower's land is located shall determine whether the borrower has complied with the requirements of paragraph (3)(A).

"(5)(A) Within 45 days after the date of the enactment of this subsection, the Secretary shall provide to the borrowers described in paragraph (3) notice by certified mail of the right of such borrowers to apply for the benefits under such paragraph.

"(B) Releases under such paragraph shall be made to qualified borrowers who have responded to the notice within 30 days after receipt.

"(C) Within 12 months after a borrower has requested restructuring under section 353, the Secretary shall make a final determination on the request. Notwithstanding the 12-month limitation provided for in paragraph (3), releases shall continue to be made to the borrower until a denial or dismissal of the application of the borrower for restructuring under section 353 is made. The amount of essential household and farm operating expenses which may be released to any borrower eligible for such releases after 12 months may exceed $18,000, by an amount proportionate to the period of time beyond 12 months before a final determination is made by the
101 STAT. 1674 Secretary.

"(6) If a borrower is required to plan for or to report on how proceeds from the sale of collateral property will be used, the Secretary shall—

"(A) notify the borrower of such requirement; and

"(B) notify the borrower of the right to the release of funds under this section and the means by which a request for the funds may be made.

"(7) The Secretary shall issue regulations consistent with this section that— Regulations.

"(A) ensure the release of funds to each borrower; and

"(B) establish guidelines for releases under paragraph (3), including a list of expenditures for which funds will normally be released.".

SEC. 612. CONSERVATION EASEMENTS.

Section 349 (7 U.S.C. 1997) is amended—

(1) in subsection (c)(4), by inserting "and other wildlife habitat" after "wetland"; and

(2) in subsection (e), by striking out the last period and inserting in lieu thereof the following: "or the difference between the amount of the outstanding loan secured by the land and the current value of the land, whichever is greater.".

SEC. 613. INTEREST RATE REDUCTION PROGRAM; DEMONSTRATION PROJECT FOR PURCHASE OF SYSTEM LAND.

(a) EXTENSION OF PROGRAM FOR 5 YEARS.—Section 1320 of the Food Security Act of 1985 (99 Stat. 1532) is amended by striking out "1988" and inserting in lieu thereof "1993". 7 USC 1999 note. 7 USC 1999.

(b) AMENDMENTS TO PROGRAM.—Section 351 (7 U.S.C. 1999) is amended—

(1) in subsection (b)(1)(C), by striking out "12-month" and inserting in lieu thereof "24-month"; and

(2) by adding at the end thereof the following new subsections:

"(f) Each Farmers Home Administration county supervisor shall make available to farmers, on request, a list of approved lenders in the area that participate in the Farmers Home Administration guaranteed farm loan programs and other lenders in the area that express a desire to participate in such programs and that request inclusion in the list.

"(g) Notwithstanding any other provision of law, each contract of guarantee on a farm loan entered into under this title after the date of the enactment of this subsection shall contain a condition that the lender of the guaranteed loan may not initiate foreclosure action on the loan until 60 days after a determination is made with respect to the eligibility of the borrower thereof to participate in the program under this section.". Contracts.

(c) DEMONSTRATION PROJECT FOR PURCHASE OF SYSTEM LAND.—Section 351 (7 U.S.C. 1999) is amended by adding after the subsection added by subsection (b) of this section the following new subsection:

"(h)(1) During the 3-year period beginning on the date of the enactment of this subsection, the Secretary shall establish and carry out a demonstration project in accordance with this subsection under which the Secretary may issue certificates of eligibility to Farmers Home Administration eligible borrowers to reduce the interest rate paid by the borrowers on loans obtained from legally organized lending institutions and Farm Credit System institutions to purchase acquired properties owned by institutions of the Farm Credit System certified to issue preferred stock under section 6.27 of the Farm Credit Act of 1971. 101 STAT. 1675

"(2) To be eligible to participate in the project, a borrower must—

"(A) meet the requirements of subsection (b)(1);

"(B) provide a down payment to purchase the land, using personal funds of the borrower, equal to at least 15 percent of the purchase price of the land; and

"(C) meet all conservation requirements for the land that are imposed on borrowers of guaranteed farm ownership loans under this title.

"(3) A certificate of eligibility issued under this subsection may be used to reduce the interest rate payable by an eligible borrower on a guaranteed loan by not more than 4 percent.

"(4) A certificate of eligibility issued under this subsection shall reduce the interest rate on a guaranteed loan for a term equal to the outstanding term of such loan, or 5 years, whichever is less.

"(5) Notwithstanding any other provision of law, if the lender of a guaranteed loan assisted under this subsection reduces the interest rate payable on the loan by at least 1 full percentage point, the Secretary may guarantee the repayment of 95 percent of the principal and interest due on the loan.

"(6) In carrying out this subsection, the Secretary may—

"(A) certify the eligibility of borrowers to participate in the demonstration project;

"(B) process applications for participation in the project;

"(C) provide certificate of eligibility to eligible borrowers on a timely basis consistent with the availability of acquired property owned by institutions of the Farm Credit System certified to issue preferred stock under section 6.27 of the Farm Credit Act of 1971; and

"(D) set aside the largest practicable portion of funds made available to guarantee farm ownership loans under this title (including unobligated funds) to carry out this subsection.

"(7) To carry out this subsection, the Secretary may transfer such amounts as may be necessary from farm operating guaranteed loans to farm ownership guaranteed loans.

"(8) In carrying out this subsection, Farm Credit System institutions shall—

"(A) sell land to eligible borrowers under this subsection at fair market value;

"(B) to the extent practicable, set aside each fiscal year land acquired or owned by such institutions of the Farm Credit System in an aggregate amount not to exceed $250,000,000 at fair market value, for purchase by eligible borrowers in accordance with this subsection; and

"(C) if necessary, subdivide tracts of land made available under this subsection into parcels that permit eligible borrowers to purchase the parcels consistent with limits placed on the size of loans made, insured, or guaranteed under this title.

"(9) Not later than 60 days after the date of the enactment of this subsection, the Secretary and the Farm Credit Administration shall develop a joint memorandum of understanding governing the implementation of this subsection.".

SEC. 614. HOMESTEAD PROTECTION.

101 STAT. 1676 Section 352 (7 U.S.C. 2000) is amended—

(1) in subsection (a)(3), by inserting before the period ", including a reasonable number of farm outbuildings located on the adjoining land that are useful to the occupants of the homestead, and no more than 10 acres of adjoining land that is used to maintain the family of the individual";

(2) in subsection (b), by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) The Secretary or the Administrator shall, on application by a borrower who meets the eligibility requirements of subsection (c)(1), permit the borrower to retain possession and occupancy of homestead property under the terms set forth, and until the action described in this section has been completed, if—

"(A) the Secretary forecloses, holds in inventory on the date of the enactment of this paragraph, or takes into inventory, property securing a loan made or insured under this title;

"(B) the Administrator forecloses, holds in inventory on the date of the enactment of this paragraph, or takes into inventory, property securing a farm program loan made under the Small Business Act (15 U.S.C. 631 et seq.); or

"(C) the borrower of a loan made or insured by the Secretary or the Administrator files a petition in bankruptcy that results in the conveyance of the homestead property to the Secretary or the Administrator, or agrees to voluntarily liquidate or convey such property in whole or in part.";

(3) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) To be eligible to occupy homestead property, a borrower of a loan made or insured by the Secretary or the Administrator shall—

"(A) apply for such occupancy not later than 90 days after the property is acquired by the Secretary or Administrator, or for property in inventory on the date of the enactment of this subsection, the borrower shall apply for occupancy not later than 90 days after such date;

"(B) have received from farming or ranching operations gross farm income reasonably commensurate with—

"(i) the size and location of the farming unit of the borrower; and

"(ii) local agricultural conditions (including natural and economic conditions), in at least 2 calendar years during the 6-year period preceding the calendar year in which the application is made;

"(C) have received from farming or ranching operations at least 60 percent of the gross annual income of the borrower and any spouse of the borrower in at least 2 calendar years during any 6-year period described in subparagraph (B);

"(D) have continuously occupied the homestead property during the 6-year period described in subparagraph (B), except that such requirement may be waived if a borrower has, due to circumstances beyond the control of the borrower, had to leave the homestead property for a period of time not to exceed 12 months during the 6-year period;

"(E) during the period of the occupancy of the homestead property, pay a reasonable sum as rent for such property to the Secretary or the Administrator in an amount substantially equivalent to rents charged for similar residential properties in the area in which the homestead property is located; 101 STAT. 1677

"(F) during the period of the occupancy of the homestead property, maintain the property in good condition; and

"(G) meet such other reasonable and necessary terms and conditions as the Secretary may require consistent with this section.

"(2) For purposes of subparagraphs (B) and (C) of paragraph (1), the term 'farming or ranching operations' shall include rent paid by lessees of agricultural land during any period in which the borrower, due to circumstances beyond the control of the borrower, is unable to actively farm such land.

"(3) For the purposes of paragraph (1)(E), the failure of the borrower to make timely rental payments shall constitute cause for the termination of all rights of such borrower to possession and occupancy of the homestead property under this section. In effecting any such termination, the Secretary shall afford the borrower or lessee the notice and hearing procedural rights described in section 333B and shall comply with all applicable State and local laws governing eviction from residential property.

"(4)(A) The period of occupancy allowed the prior owner of homestead property under this section shall be the period requested in writing by the prior owner, except that such period shall not exceed 5 years.

"(B) At any time during the period of occupancy, the borrower shall have a right of first refusal to reacquire the homestead property on such terms and conditions as the Secretary shall determine, except that the Secretary may not demand a payment for the homestead property that is in excess of the current market value of the homestead property as established by an independent appraisal. The independent appraisal shall be conducted by an appraiser selected by the borrower from a list of three appraisers approved by the county supervisor.

"(5) No rights of a borrower under this section, and no agreement entered into between the borrower and the Secretary for occupancy of the homestead property, shall be transferable or assignable by the borrower or by operation of any law, except that in the case of death or incompetency of such borrower, such rights and agreements shall

be transferable to the spouse of the borrower if the spouse agrees to comply with the terms and conditions thereof.

"(6) Within 30 days of the acquisition of the homestead property securing a loan made or insured under this title, the Secretary shall notify the borrower from whom the property was acquired of the availability of homestead protection rights under this section. For property in inventory on the date of the enactment of this subsection, the Secretary shall make a good faith effort to notify the borrower of the availability of homestead protection rights under this section within 60 days after such date.";

(3) in subsection (d), by adding at the end thereof the following new sentence: "Such terms and conditions shall not be less favorable than those intended to be offered to any other buyer."; and

(4) by adding at the end thereof the following new subsections:

Contracts.

"(f) The Secretary may enter into contracts authorized by this section before the Secretary acquires title to the homestead property.

"(g) In the event of any conflict between this section and any provision of the law of any State relating to the right of a borrower

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to designate for separate sale or redeem part or all of the real property securing a loan foreclosed on by the lender thereof, such provision of State law shall prevail.".

SEC. 615. DEBT RESTRUCTURING AND LOAN SERVICING.

(a) IN GENERAL.—Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding at the end thereof the following new section:

7 USC 2001.

"SEC. 353. DEBT RESTRUCTURING AND LOAN SERVICING.

"(a) IN GENERAL.—The Secretary shall modify delinquent farmer program loans made or insured under this title, or purchased from the lender or the Federal Deposit Insurance Corporation under section 309B, to the maximum extent possible—

"(1) to avoid losses to the Secretary on such loans, with priority consideration being placed on writing-down the loan principal and interest (subject to subsections (d) and (e)), and debt set-aside (subject to subsection (e)), whenever these procedures would facilitate keeping the borrower on the farm or ranch, or otherwise through the use of primary loan service programs as provided in this section; and

"(2) to ensure that borrowers are able to continue farming or ranching operations.

"(b) ELIGIBILITY.—To be eligible to obtain assistance under subsection (a)—

"(1) the delinquency must be due to circumstances beyond the control of the borrower, as defined in regulations issued by the Secretary;

"(2) the borrower must have acted in good faith with the Secretary in connection with the loan as defined in regulations issued by the Secretary;

"(3) the borrower must present a preliminary plan to the Secretary that contains reasonable assumptions that demonstrate that the borrower will be able to—

"(A) meet the necessary family living and farm operating expenses; and

"(B) service all debts, including those of the loans restructured; and

"(4) the loan, if restructured, must result in a net recovery to the Federal Government, during the term of the loan as restructured, that would be more than or equal to the net recovery to the Federal Government from an involuntary liquidation or foreclosure on the property securing the loan.

"(c) RESTRUCTURING DETERMINATIONS.—

"(1) DETERMINATION OF NET RECOVERY.—In determining the net recovery from the involuntary liquidation of a loan under this section, the Secretary shall calculate—

"(A) the recovery value of the collateral securing the loan, in accordance with paragraph (2); and

"(B) the value of the restructured loan, in accordance with paragraph (3).

"(2) RECOVERY VALUE.—For the purpose of paragraph (1), the recovery value of the collateral securing the loan shall be based on—

"(A) the amount of the current appraised value of the property securing the loan; less

"(B) the estimated administrative, legal, and other expenses associated with the liquidation and disposition of the loan and collateral, including—

"(i) the payment of prior liens;

"(ii) taxes and assessments, depreciation, management costs, the yearly percentage decrease or increase in the value of the property, and lost interest income, each calculated for the average holding period for the type of property involved;

Taxes.

"(iii) resale expenses, such as repairs, commissions, and advertising; and

"(iv) other administrative and attorney's costs.

"(3) VALUE OF THE RESTRUCTURED LOAN.—

"(A) IN GENERAL.—For the purpose of paragraph (1), the value of the restructured loan shall be based on the present value of payments that the borrower would make to the Federal Government if the terms of such loan were modified under any combination of primary loan service programs to ensure that the borrower is able to meet such obligations and continue farming operations.

"(B) PRESENT VALUE.—For the purpose of calculating the present value referred to in subparagraph (A), the Secretary shall use a discount rate of not more than the current rate on 90-day Treasury bills.

"(4) NOTIFICATION.—Within 60 days after receipt of a written request for restructuring from the borrower, the Secretary shall—

"(A) make the calculations specified in paragraphs (2) and (3);

"(B) notify the borrower in writing of the results of such calculations; and

"(C) provide documentation for the calculations.

"(5) RESTRUCTURING OF LOANS.—If the value of the restructured loan is greater than or equal to the recovery value, the Secretary shall, within 45 days after notifying the borrower of such calculations, offer to restructure the loan obligations of the borrower under this title through primary loan service programs that would enable the borrower to meet the obligations (as modified) under the loan and to continue the farming operations of the borrower. If the borrower accepts such offer, within 45 days after receipt of notice of acceptance, the Secretary shall restructure the loan accordingly.

"(6) TERMINATION OF LOAN OBLIGATIONS.—If the value of the restructured loan is less than the recovery value and if, within 45 days after receipt of the notification described in paragraph (4)(B), the borrower pays (or obtains third-party financing to pay) the Secretary an amount equal to the recovery value, the obligations of the borrower to the Secretary under the loan shall terminate, except that the Secretary may require, as a condition of such termination of loan obligations, that the borrower enter into an agreement with the Secretary if the borrower sells or otherwise conveys the real property used to secure such loan within 2 years after the date of such agreement. Any such agreement shall provide for the recapture of part or all of the difference between the recovery value of the loan and the fair market value (on the date of such agreement) of the property securing the loan if the borrower realizes a gain on the sale or

conveyance over the amount of the recovery value of the loan. In no event shall any such agreement provide for recapture of
101 STAT. 1680 an amount that exceeds the difference between such recovery value and the fair market value of the property securing the loan on the date of such agreement.

"(d) PRINCIPAL AND INTEREST WRITE-DOWN.—

"(1) IN GENERAL.—

"(A) PRIORITY CONSIDERATION.—In selecting the restructuring alternatives to be used in the case of a borrower who has requested restructuring under this section, the Secretary shall give priority consideration to the use of principal and interest write-down, except that this procedure shall not be given first priority in the case of a borrower unless other creditors of such borrower (other than those creditors who are fully collateralized) representing a substantial portion of the total debt of the borrower held by such creditors, agree to participate in the development of the restructuring plan or agree to participate in a State mediation program.

"(B) FAILURE OF CREDITORS TO AGREE.—Failure of creditors to agree to participate in the restructuring plan or mediation program shall not preclude the use of principal and interest write-down by the Secretary if the Secretary determines that this restructuring alternative results in the least cost to the Secretary.

"(2) PARTICIPATION OF CREDITORS.—Before eliminating the option to use debt write-down in the case of a borrower, the Secretary shall make a reasonable effort to contact the creditors of such borrower, either directly or through the borrower, and encourage such creditors to participate with the Secretary in the development of a restructuring plan for the borrower.

"(e) SHARED APPRECIATION ARRANGEMENTS.—

"(1) IN GENERAL.—As a condition of restructuring a loan in accordance with this section, the borrower of the loan may be required to enter into a shared appreciation arrangement that requires the repayment of amounts written off or set aside.

"(2) TERMS.—Shared appreciation agreements shall have a term not to exceed 10 years, and shall provide for recapture based on the difference between the appraised values of the real security property at the time of restructuring and at the time of recapture.

"(3) PERCENTAGE OF RECAPTURE.—The amount of the appreciation to be recaptured by the Secretary shall be 75 percent of the appreciation in the value of such real security property if the recapture occurs within 4 years of the restructuring, and 50 percent if the recapture occurs during the remainder of the term of the agreement.

"(4) TIME OF RECAPTURE.—Recapture shall take place at the end of the term of the agreement, or sooner—

"(A) on the conveyance of the real security property;

"(B) on the repayment of the loans; or

"(C) if the borrower ceases farming operations.

"(5) TRANSFER OF TITLE.—Transfer of title to the spouse of a borrower on the death of such borrower shall not be treated as a conveyance for the purpose of paragraph (4).

"(f) DETERMINATION TO RESTRUCTURE.—If the appeal process results in a determination that a loan is eligible for restructuring, the Secretary shall restructure the loan in the manner consistent with this section, taking into consideration the restructuring rec-
101 STAT. 1681 ommendations, if any, of the appeals officer.

"(g) PREREQUISITES TO FORECLOSURE OR LIQUIDATION.—No foreclosure or other similar actions shall be taken to liquidate any loan determined to be ineligible for restructuring by the Secretary under this section—

"(1) until the borrower has been given the opportunity to appeal such decision; and

"(2) if the borrower appeals, the appeals process has been completed, and a determination has been made that the loan is ineligible for restructuring.

"(h) TIME LIMITS FOR RESTRUCTURING.—Once an appeal has been filed under section 333B, a decision shall be made at each level in the appeals process within 45 days after the receipt of the appeal or request for further review.

"(i) NOTICE OF INELIGIBILITY FOR RESTRUCTURING.—

"(1) IN GENERAL.—A notice of ineligibility for restructuring shall be sent to the borrower by registered or certified mail within 15 days after such determination.

"(2) CONTENTS.—The notice required under paragraph (1) shall contain—

"(A) the determination and the reasons for the determination;

"(B) the computations used to make the determination, including the calculation of the recovery value of the collateral securing the loan; and

"(C) a statement of the right of the borrower to appeal the decision to the appeals division, and to appear before a hearing officer.

"(j) INDEPENDENT APPRAISALS.—An appeal filed with the appeals division under section 333B may include a request by the borrower for an independent appraisal of any property securing the loan. On such request, the appeals division shall present the borrower with a list of three appraisers approved by the county supervisor, from which the borrower shall select an appraiser to conduct the appraisal, the cost of which shall be borne by the borrower. The results of such appraisal shall be considered in any final determination concerning the loan. A copy of any appraisal made under this paragraph shall be provided to the borrower.

"(k) FUTURE CREDITWORTHINESS OF BORROWER DETERMINED WITHOUT REGARD TO RESTRUCTURING.—The creditworthiness of, or the adequacy of collateral offered by, any borrower whose loan obligations are restructured under this section shall be determined without regard to such restructuring.".

(b) OTHER RESTRUCTURING PROVISIONS.—

(1) OPTION TO RESTRUCTURE INTEREST RATES FOR CERTAIN WATER AND WASTE DISPOSAL AND COMMUNITY FACILITY BORROWERS.—

(A) IN GENERAL.—The item designated "Loan Programs" under the subheading "Farmers Home Administration" in chapter I of title I of the Supplemental Appropriations Act, 1985 (7 U.S.C. 1927a; 99 Stat. 296) is amended—

(i) by striking out "Effective November 12, 1983, and thereafter," and inserting in lieu thereof "Effective October 1, 1981, and thereafter, in the case of water and waste disposal and community facility borrowers, and effective November 12, 1983, and thereafter, in the case of housing and farm borrowers,"; and

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(ii) by striking out "housing, farm, water and waste disposal, and community facility" and inserting in lieu thereof "such".

(B) CERTAIN OBLIGATIONS EXCEPTED.—The amendment made by subparagraph (A) shall not apply to any note or other obligation sold under section 1001 of the Omnibus Reconciliation Act of 1986 on or before the date of the enactment of this paragraph.

7 USC 1927a note.

(2) INTEREST RATE RESTRUCTURING FOR CERTAIN OTHER BORROWERS.—Effective July 29, 1987, the interest rate charged on any loan of $2,000,000 or more made on such date under section 306 to any nonprofit corporation shall be the interest rate quoted to such nonprofit corporation by the Farmers Home Administration on June 22, 1987, in the request for obligation of funds made with respect to the loan.

7 USC 1926 note.

(c) LIQUIDATION NOT REQUIRED AS PREREQUISITE TO DEBT RESTRUCTURING AND LOAN SERVICING.—Subsection (d) of section 331 (7 U.S.C. 1981(d)) is amended—

(1) by inserting "debts or" before "claims"; and

(2) by adding at the end of the first sentence the following: "The Secretary may not require liquidation of property securing any farmer program loan or acceleration of any payment required under any farmer program loan as a prerequisite to initiating an action authorized under this subsection.".

7 USC 2001 note.

(d) SUSPENSION OF COLLECTION ACTIVITIES DURING TRANSITION PERIOD.—The Secretary of Agriculture shall not initiate any acceleration, foreclosure, or liquidation in connection with any delinquent farmer program loan before the date the Secretary has issued final regulations to carry out the amendments made by this section. The preceding sentence shall not prohibit the Secretary from taking any action with respect to waste, fraud, or abuse by the borrower.

Fraud.

SEC. 616. TRANSFER OF INVENTORY LANDS.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 615(a) of this Act the following new section:

State and local governments.
7 USC 2002.

"SEC. 354. TRANSFER OF INVENTORY LANDS.

"The Secretary, without reimbursement, may transfer to any Federal or State agency, for conservation purposes any real property, or interest therein, administered by the Secretary under this Act—

"(1) with respect to which the rights of all prior owners and operators have expired;

"(2) that is determined by the Secretary to be suitable or surplus; and

"(3) that—

"(A) has marginal value for agricultural production;

"(B) is environmentally sensitive; or

"(C) has special management importance.".

SEC. 617. TARGET PARTICIPATION RATES.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 616 of this Act the following new section:

Disadvantaged persons.
7 USC 2003.

"SEC. 355. TARGET PARTICIPATION RATES.

"(a) ESTABLISHMENT.—

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"(1) IN GENERAL.—The Secretary shall establish annual target participation rates, on a county wide basis, that shall ensure that members of socially disadvantaged groups will receive loans made or insured under subtitle A and will have the opportunity to purchase or lease inventory farmland.

"(2) GROUP POPULATION.—In establishing such target rates the Secretary shall take into consideration the portion of the population of the county made up of such groups, and the availability of inventory farmland in such county.

"(b) RESERVATION AND ALLOCATION.—

"(1) RESERVATION.—The Secretary shall, to the greatest extent practicable, reserve sufficient loan funds made available under subtitle A, for use by members of socially disadvantaged groups identified under target participation rates established under subsection (a).

"(2) ALLOCATION.—The Secretary shall allocate such loans on the basis of the proportion of members of socially disadvantaged groups in a county and the availability of inventory farmland, with the greatest amount of loan funds being distributed in the county with the greatest proportion of socially disadvantaged group members and the greatest amount of available inventory farmland.

"(c) REPORT.—The Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the

Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that describes the annual target participation rates and the success in meeting such rates.

"(d) DEFINITION.—As used in this section, the term 'socially disadvantaged group' means a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities.".

SEC. 618. EXPEDITED CLEARING OF TITLE TO INVENTORY PROPERTY.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 617 of this Act the following:

"SEC. 356. EXPEDITED CLEARING OF TITLE TO INVENTORY PROPERTY. 7 USC 2004.

"The Farmers Home Administration may employ local attorneys, on a case-by-case basis, to process all legal procedures necessary to clear the title to foreclosed properties in the inventory of the Farmers Home Administration. Such attorneys shall be compensated at not more than their usual and customary charges for such work.".

SEC. 619. PAYMENT OF LOSSES ON GUARANTEED LOANS.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 357. PAYMENT OF LOSSES ON GUARANTEED LOANS. 7 USC 2005.

"(a) PAYMENTS TO LENDERS.—

"(1) REQUIREMENT.—Within 3 months after a court of competent jurisdiction confirms a plan of reorganization under chapter 12 of title 11, United States Code, for any borrower to whom a lender has made a loan guaranteed under this title, the Secretary shall pay the lender an amount estimated by the Secretary to be equal to the loss incurred by the lender for purposes of the guarantee.

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"(2) PAYMENT TOWARD LOAN GUARANTEE.—Any amount paid to a lender under this subsection with respect to a loan guaranteed under this title shall be treated as payment towards satisfaction of the loan guarantee.

"(b) ADMINISTRATION.—

"(1) LOSS BY LENDER.—If the lender of a guaranteed farmer program loan takes any action described in section 331(d) with respect to the loan and the Secretary approves such action, then, for purposes of the guarantee, the lender shall be treated as having sustained a loss equal to the amount by which—

"(A) the outstanding balance of the loan immediately before such action, exceeds

"(B) the outstanding balance of the loan immediately after such action.

"(2) NET PRESENT VALUE OF LOAN.—The Secretary shall approve the taking of an action described in section 331(d) by the lender of a guaranteed farmer program loan with respect to the loan if such action reduces the net present value of the loan to an amount equal to not less than the greater of—

"(A) the greatest net present value of a loan the borrower could reasonably be expected to repay; and

"(B) the greatest amount that the lender of the loan could reasonably expect to recover from the borrower through bankruptcy, or liquidation of the property securing the loan, less all reasonable and necessary costs and expenses that the lender of the loan could reasonably expect to incur to preserve or dispose of such property (including all associated legal and property management costs) in the course of such a bankruptcy or liquidation.

"(3) CONSTRUCTION OF SUBSECTION.—This subsection shall not be construed to limit the authority of the Secretary to enter into a shared appreciation arrangement with a borrower, or the terms and conditions which shall be required of a borrower, under section 353(e).".

7 USC 1926 note.

SEC. 620. LEASE OF CERTAIN ACQUIRED PROPERTY.

Notwithstanding any other provision of law, the Secretary of Agriculture may lease to public or private nonprofit organizations, for a nominal rent, any facilities acquired in connection with the disposition of a loan made by the Secretary under section 306. Any such lease shall be for such reasonable period of time as the Secretary determines is appropriate.

7 USC 1989 note.

SEC. 621. STUDY AND REPORT TO CONGRESS BEFORE ISSUANCE OF CERTAIN FINAL REGULATIONS.

Not later than 60 days before the Secretary of Agriculture issues final regulations providing for the use of ratios and standards as part of loan applications or preapplications, for determining the degree of potential loan risk on loans insured or guaranteed under the Consolidated Farm and Rural Development Act, the Secretary shall complete a study and report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the effects of such regulations on a representative sample of persons who, as of the date of the enactment of this Act, are borrowers or potential borrowers of such loans, and shall demonstrate in such study that the
101 STAT. 1685 implementation of such final regulations will not result in a portfolio of borrowers that is inconsistent with the purposes of the Consolidated Farm and Rural Development Act.

SEC. 622. CONTINUATION OF LIMITED RESOURCE FARMERS' INITIATIVE.

The Secretary of Agriculture shall maintain substantially at the levels in effect on the date of the enactment of this title, the limited resource farmers' initiative in the office of the Director of the Office of Advocacy and Enterprise.

7 USC 1985 note.

SEC. 623. FARM OWNERSHIP OUTREACH PROGRAM TO SOCIALLY DISADVANTAGED INDIVIDUALS.

The Secretary of Agriculture, in coordination with the limited resource farmers' initiative in the office of the Director of the Office of Advocacy and Enterprise, shall establish a farm ownership outreach program for persons who are members of any group with respect to which an individual may be identified as a socially disadvantaged individual under section 8(a)(5) of the Small Business Act (15 U.S.C. 637(a)(5)) to encourage the acquisition of inventory farmland of the Farmers Home Administration by—

(1) informing persons eligible for assistance under any other provision of this Act of—

(A) the possiblity of acquiring such inventory farmland; and

(B) various farm ownership loan programs; and

(2) providing technical assistance to such persons in the acquisition of such inventory farmland.

7 USC 1989 note.

SEC. 624. REGULATIONS.

Within 150 days after the date of the enactment of this title, and after considering public comment obtained under section 553 of title 5, United States Code, the Secretary shall issue final regulations to carry out the amendments made by this title.

SEC. 625. SENSE OF CONGRESS REGARDING GUARANTEED LOAN PROGRAM.

It is the sense of Congress that the Secretary of Agriculture should issue guarantees for loans under the Consolidated Farm and Rural Development Act, to the maximum extent practicable, to assist eligible borrowers whose loans are restructured by institutions of the Farm Credit System, commercial banks, insurance companies, and other lending institutions.

SEC. 626. SENSE OF CONGRESS REGARDING NATIONAL RURAL CRISIS RESPONSE CENTER.

It is the sense of Congress that efforts by various State and local public agencies, citizens' groups, church and civic organizations, and individuals to focus attention on and respond to rural problems throughout the Nation are deserving of the recognition, encouragement, and support of Congress and the American people for the valuable services they provide.

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TITLE VII—AGRICULTURAL MORTGAGE SECONDARY MARKETS

Subtitle A—The Federal Agricultural Mortgage Corporation

Housing.

SEC. 701. STATEMENT OF PURPOSE.

12 USC 2279aa note.

It is the purpose of this subtitle—

(1) to establish a corporation chartered by the Federal Government;

(2) to authorize the certification of agricultural mortgage marketing facilities by the corporation;

(3) to provide for a secondary marketing arrangement for agricultural real estate mortgages that meet the underwriting standards of the corporation—

(A) to increase the availability of long-term credit to farmers and ranchers at stable interest rates;

(B) to provide greater liquidity and lending capacity in extending credit to farmers and ranchers; and

(C) to provide an arrangement for new lending to facilitate capital market investments in providing long-term agricultural funding, including funds at fixed rates of interest; and

(4) to enhance the ability of individuals in small rural communities to obtain financing for moderate-priced homes.

SEC. 702. AGRICULTURAL MORTGAGE SECONDARY MARKET.

The Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) is amended by adding after title VII (as added by section 401 of this Act) the following new title:

"TITLE VIII—AGRICULTURAL MORTGAGE SECONDARY MARKET

"SEC. 8.0. DEFINITIONS.

12 USC 2279aa.

"For purposes of this title:

"(1) AGRICULTURAL REAL ESTATE.—The term 'agricultural real estate' means—

"(A) a parcel or parcels of land, or a building or structure affixed to the parcel or parcels, that—

"(i) is used for the production of one or more agricultural commodities or products; and

"(ii) consists of a minimum acreage or is used in producing minimum annual receipts, as determined by the Corporation; or

"(B) a principal residence that is a single family, moderate-priced residential dwelling located in a rural area, excluding—

"(i) any community having a population in excess of 2,500 inhabitants; and

"(ii) any dwelling with a purchase price exceeding $100,000 (as adjusted for inflation).

"(2) BOARD.—The term 'Board' means—

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"(A) the interim board of directors established in section 8.2(a); and

"(B) the permanent board of directors established in section 8.2(b);

as the case may be.

"(3) CERTIFIED FACILITY.—The term 'certified facility' means a secondary marketing agricultural loan facility that is certified under section 8.5.

"(4) CORPORATION.—The term 'Corporation' means the Federal Agricultural Mortgage Corporation established in section 8.1.

"(5) GUARANTEE.—The term 'guarantee' means the guarantee of timely payment of the principal and interest on securities representing interests in, or obligations backed by, pools of qualified loans, in accordance with this title.

"(6) INTERIM BOARD.—The term 'interim board' means the interim board of directors established in section 8.2(a).

"(7) ORIGINATOR.—The term 'originator' means any Farm Credit System institution, bank, insurance company, business and industrial development company, savings and loan association, association of agricultural producers, agricultural cooperative, commercial finance company, trust company, credit union, or other entity that originates and services agricultural mortgage loans.

"(8) PERMANENT BOARD.—The term 'permanent board' means the permanent board of directors established in section 8.2(b).

"(9) QUALIFIED LOAN.—The term 'qualified loan' means an obligation that—

"(A) is secured by a fee-simple or leasehold mortgage with status as a first lien on agricultural real estate located in the United States that is not subject to any legal or equitable claims deriving from a preceding fee-simple or leasehold mortgage;

"(B) is an obligation of—

"(i) a citizen or national of the United States or an alien lawfully admitted for permanent residence in the United States; or

"(ii) a private corporation or partnership whose members, stockholders, or partners hold a majority interest in the corporation or partnership and are individuals described in clause (i); and

"(C) is an obligation of a person, corporation, or partnership that has training or farming experience that, under criteria established by the Corporation, is sufficient to ensure a reasonable likelihood that the loan will be repaid according to its terms.

"(10) STATE.—The term 'State' has the meaning given such term in section 5.51.

12 USC 2279aa-1.

"SEC. 8.1. FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is hereby established a corporation to be known as the Federal Agricultural Mortgage Corporation, which shall be a federally chartered instrumentality of the United States.

"(2) INSTITUTION WITHIN FARM CREDIT SYSTEM.—The Corporation shall be an institution of the Farm Credit System.

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"(3) LIABILITY.—

"(A) CORPORATION.—The Corporation shall not be liable for any debt or obligation of any other institution of the Farm Credit System.

"(B) SYSTEM INSTITUTIONS.—The Farm Credit System and System institutions (other than the Corporation) shall not be liable for any debt or obligation of the Corporation.

"(b) DUTIES.—The Corporation shall—

"(1) in consultation with originators, develop uniform under-

writing, security appraisal, and repayment standards for qualified loans;

"(2) determine the eligibility of agricultural mortgage marketing facilities to contract with the Corporation for the provision of guarantees for specific mortgage pools; and

"(3) provide guarantees for the timely repayment of principal and interest on securities representing interests in, or obligations backed by, pools of qualified loans.

"SEC. 8.2. BOARD OF DIRECTORS. 12 USC 2279aa-2.

"(a) INTERIM BOARD.—

"(1) NUMBER AND APPOINTMENT.—Until the permanent board of directors established in subsection (b) first meets with a quorum of its members present, the Corporation shall be under the management of an interim board of directors composed of 9 members appointed by the President within 90 days after the effective date of this title as follows: President of U.S.

"(A) 3 members appointed from among persons who are representatives of banks, other financial institutions or entities, and insurance companies.

"(B) 3 members appointed from among persons who are representatives of the Farm Credit System institutions.

"(C) 2 members appointed from among persons who are farmers or ranchers who are not serving, and have not served, as directors or officers of any financial institution or entity, of which not more than 1 may be a stockholder of any Farm Credit System institution.

"(D) 1 member appointed from among persons who represent the interests of the general public and are not serving, and have not served, as directors or officers of any financial institution or entity.

"(2) POLITICAL AFFILIATION.—Not more than 5 members of the interim board shall be of the same political party.

"(3) VACANCY.—A vacancy in the interim board shall be filled in the manner in which the original appointment was made.

"(4) CONTINUATION OF MEMBERSHIP.—If—

"(A) any member of the interim board who was appointed to such board from among persons who are representatives of banks, other financial institutions or entities, insurance companies, or Farm Credit System institutions ceases to be such a representative; or

"(B) any member who was appointed from among persons who are not or have not been directors or officers of any financial institution or entity becomes a director or an officer of any financial institution or entity;

such member may continue as a member for not longer than the 45-day period beginning on the date such member ceases to be such a representative or becomes such a director or officer, as the case may be. 101 STAT. 1689

"(5) TERMS.—The members of the interim board shall be appointed for the life of such board.

"(6) QUORUM.—5 members of the interim board shall constitute a quorum.

"(7) CHAIRPERSON.—The President shall designate 1 of the members of the interim board as the chairperson of the interim board. President of U.S.

"(8) MEETINGS.—The interim board shall meet at the call of the chairperson or a majority of its members.

"(9) VOTING COMMON STOCK.—

"(A) INITIAL OFFERING.—Upon the appointment of sufficient members of the interim board to convene a meeting with a quorum present, the interim board shall arrange for an initial offering of common stock and shall take whatever other actions are necessary to proceed with the operations of the Corporation.

"(B) PURCHASERS.—Subject to subparagraph (C), the voting common stock shall be offered to banks, other financial entities, insurance companies, and System institutions under such terms and conditions as the interim board may adopt.

"(C) DISTRIBUTION.—The voting stock shall be fairly and broadly offered to ensure that no institution or institutions acquire a disproportionate amount of the total amount of voting common stock outstanding of a class and that capital contributions and issuances of voting common stock for the contributions are fairly distributed between entities eligible to hold class A and class B stock, as provided under section 8.4.

"(10) TERMINATION.—The interim board shall terminate when the permanent board of directors established in subsection (b) first meets with a quorum present.

"(b) PERMANENT BOARD.—

"(1) ESTABLISHMENT.—Immediately after the date that banks, other financial institutions or entities, insurance companies, and System institutions have subscribed and fully paid for at least $20,000,000 of common stock of the Corporation, the Corporation shall arrange for the election and appointment of a permanent board of directors. After the termination of the interim board, the Corporation shall be under the management of the permanent board.

"(2) COMPOSITION.—The permanent board shall consist of 15 members, of which—

"(A) 5 members shall be elected by holders of common stock that are insurance companies, banks, or other financial institutions or entities;

"(B) 5 members shall be elected by holders of common stock that are Farm Credit System institutions; and

"(C) 5 members shall be appointed by the President, by and with the advice and consent of the Senate—

"(i) which members shall not be, or have been, officers or directors of any financial institutions or entities;

"(ii) which members shall be representatives of the general public;

101 STAT. 1690

"(iii) of which members not more than 3 shall be members of the same political party; and

"(iv) of which members at least 2 shall be experienced in farming or ranching.

"(3) PRESIDENTIAL APPOINTEES.—The President shall appoint the members of the permanent board referred to in paragraph (2)(C) not later than the later of—

"(A) the date referred to in paragraph (1); or

"(B) the expiration of the 270-day period beginning on the effective date of this title.

"(4) VACANCY.—

"(A) ELECTED MEMBERS.—Subject to paragraph (6), a vacancy among the members elected to the permanent board in the manner described in subparagraph (A) or (B) of paragraph (2) shall be filled by the permanent board from among persons eligible for election to the position for which the vacancy exists.

"(B) APPOINTED MEMBERS.—A vacancy among the members appointed to the permanent board under paragraph (2)(C) shall be filled in the manner in which the original appointment was made.

"(5) CONTINUATION OF MEMBERSHIP.—If—

"(A) any member of the permanent board who was appointed or elected to the permanent board from among persons who are representatives of banks, other financial institutions or entities, insurance companies, or Farm Credit System institutions ceases to be such a representative; or

"(B) any member who was appointed from persons who are not or have not been directors or officers of any financial institution or entity becomes a director or an officer of any financial institution or entity;

such member may continue as a member for not longer than the 45-day period beginning on the date such member ceases to be such a representative, officer, or employee or becomes such a director or officer, as the case may be.

"(6) TERMS.—

"(A) APPOINTED MEMBERS.—The members appointed by the President shall serve at the pleasure of the President.

"(B) ELECTED MEMBERS.—The members elected under subparagraphs (A) and (B) of subsection (b)(2) shall each be elected annually for a term ending on the date of the next annual meeting of the common stockholders of the Corporation and shall serve until their successors are elected and qualified. Any seat on the permanent board that becomes vacant after the annual election of the directors shall be filled by the members of the permanent board from the same category of directors, but only for the unexpired portion of the term.

"(C) VACANCY APPOINTMENT.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed only for the remainder of such term.

"(D) SERVICE AFTER EXPIRATION OF TERM.—A member may serve after the expiration of the term of the member until the successor of the member has taken office.

101 STAT. 1691

"(7) QUORUM.—8 members of the permanent board shall constitute a quorum.

"(8) NO ADDITIONAL PAY FOR FEDERAL OFFICERS OR EMPLOYEES.—Members of the permanent board who are fulltime officers or employees of the United States shall receive no additional pay by reason of service on the permanent board.

"(9) CHAIRPERSON.—The President shall designate 1 of the members of the permanent board who are appointed by the President as the chairperson of the permanent board.

President of U.S.

"(10) MEETINGS.—The permanent board shall meet at the call of the chairperson or a majority of its members.

"(c) OFFICERS AND STAFF.—The Board may appoint, employ, fix the pay of, and provide other allowances and benefits for such officers and employees of the Corporation as the Board determines to be appropriate.

"SEC. 8.3. POWERS AND DUTIES OF CORPORATION AND BOARD.

12 USC 2279aa-3.

"(a) GUARANTEES.—After the Board has been duly constituted, subject to the other provisions of this title and other commitments and requirements established pursuant to law, the Corporation may provide guarantees on terms and conditions determined by the Corporation of securities issued on the security of, or in participation in, pooled interests in qualified loans.

"(b) DUTIES OF THE BOARD.—

"(1) IN GENERAL.—The Board shall—

"(A) determine the general policies that shall govern the operations of the Corporation;

"(B) select, appoint, and determine the compensation of qualified persons to fill such offices as may be provided for in the bylaws of the Corporation; and

"(C) assign to such persons such executive functions, powers, and duties as may be prescribed by the bylaws of the Corporation or by the Board.

"(2) EXECUTIVE OFFICERS AND FUNCTIONS.—The persons elected or appointed under paragraph (1)(B) shall be the executive officers of the Corporation and shall discharge the executive functions, powers, and duties of the Corporation.

"(c) POWERS OF THE CORPORATION.—The Corporation shall be a body corporate and shall have the following powers:

"(1) To operate under the direction of its Board.

"(2) To issue stock in the manner provided in section 8.4.

"(3) To adopt, alter, and use a corporate seal, which shall be judicially noted.

"(4) To provide for a president, 1 or more vice presidents, secretary, treasurer, and such other officers, employees, and agents, as may be necessary, define their duties and compensation levels, all without regard to title 5, United States Code, and require surety bonds or make other provisions against losses occasioned by acts of the persons.

"(5) To provide guarantees in the manner provided under section 8.6.

"(6) To have succession until dissolved by a law enacted by the Congress.

"(7) To prescribe bylaws, through the Board, not inconsistent with law, that shall provide for—

"(A) the classes of the stock of the Corporation; and

101 STAT. 1692

"(B) the manner in which—

"(i) the stock shall be issued, transferred, and retired;

"(ii) the officers, employees, and agents of the Corporation are selected;

"(iii) the property of the Corporation is acquired, held, and transferred;

"(iv) the commitments and other financial assistance of the Corporation are made;

"(v) the general business of the Corporation is conducted; and

"(vi) the privileges granted by law to the Corporation are exercised and enjoyed;

"(8) To prescribe such standards as may be necessary to carry out this title.

Contracts.

"(9) To enter into contracts and make payments with respect to the contracts.

"(10) To sue and be sued in its corporate capacity and to complain and defend in any action brought by or against the Corporation in any State or Federal court of competent jurisdiction.

Contracts.

"(11) To make and perform contracts, agreements, and commitments with persons and entities both inside and outside of the Farm Credit System.

Real property.

"(12) To acquire, hold, lease, mortgage or dispose of, at public or private sale, real and personal property, purchase or sell any securities or obligations, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to the business of the Corporation.

"(13) To exercise such other incidental powers as are necessary to carry out the powers, duties, and functions of the Corporation in accordance with this title.

"(d) FEDERAL RESERVE BANKS AS DEPOSITARIES AND FISCAL AGENTS.—The Federal Reserve banks may act as depositaries for, or as fiscal agents or custodians of, the Corporation.

"(e) ACCESS TO BOOK-ENTRY SYSTEM.—The Secretary of the Treasury may authorize the Corporation to use the book-entry system of the Federal Reserve System.

12 USC 2279aa-4.

"SEC. 8.4. STOCK ISSUANCE.

"(a) VOTING COMMON STOCK.—

"(1) ISSUE.—The Corporation shall issue voting common stock having such par value as may be fixed by the Board from time to time. Each share of voting common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors. Voting shall be by classes as described in section 8.2(a)(9). The stock shall be divided into two classes with the same par value per share. Class A stock may be held only by entities that are not Farm Credit System institutions that are entitled to vote for directors specified in section 8.2(b)(2)(A).

Class B stock may be held only by Farm Credit System institutions that are entitled to vote for directors specified in section 8.2(b)(2)(B).

"(2) LIMITATION ON ISSUE.—After the date the permanent board first meets with a quorum of its members present, voting common stock of the Corporation may be issued only to originators and certified facilities.

"(3) AUTHORITY OF BOARD TO ESTABLISH TERMS AND PROCEDURES.—The Board shall adopt such terms, conditions, and procedures with regard to the issue of stock under this section as may be necessary, including the establishment of a maximum amount limitation on the number of shares of voting common stock that may be outstanding at any time. 101 STAT. 1693

"(4) TRANSFERABILITY.—Subject to such limitations as the Board may impose, any share of any class of voting common stock issued under this section shall be transferable among the institutions or entities to which shares of such class of common stock may be offered under paragraph (1), except that, as to the Corporation, such shares shall be transferable only on the books of the Corporation.

"(5) MAXIMUM NUMBER OF SHARES.—No stockholder, other than a holder of class B stock, may own, directly or indirectly, more than 33 percent of the outstanding shares of such class of the voting common stock of the Corporation.

"(b) REQUIRED CAPITAL CONTRIBUTIONS.—

"(1) IN GENERAL.—The Corporation may require each originator and each certified facility to make, or commit to make, such nonrefundable capital contributions to the Corporation as are reasonable and necessary to meet the administrative expenses of the Corporation.

"(2) STOCK ISSUED AS CONSIDERATION FOR CONTRIBUTION.—The Corporation, from time to time, shall issue to each originator or certified facility voting common stock evidencing any capital contributions made pursuant to this subsection.

"(c) DIVIDENDS.—

"(1) IN GENERAL.—Such dividends as may be declared by the Board, in the discretion of the Board, shall be paid by the Corporation to the holders of the voting common stock of the Corporation pro rata based on the total number of shares of both classes of stock outstanding.

"(2) RESERVES REQUIREMENT.—No dividend may be declared or paid by the Board under this section unless the Board determines that adequate provision has been made for the reserve required under section 8.10(c)(1).

"(3) DIVIDENDS PROHIBITED WHILE OBLIGATIONS ARE OUTSTANDING.—No dividend may be declared or paid by the Board under this section while any obligation issued by the Corporation to the Secretary of the Treasury under section 8.13 remains outstanding.

"(d) NONVOTING COMMON STOCK.—The Corporation is authorized to issue nonvoting common stock having such par value as may be fixed by the Board from time to time. Such nonvoting common stock shall be freely transferable, except that, as to the Corporation, such stock shall be transferable only on the books of the Corporation. Such dividends as may be declared by the Board, in the discretion of the Board, may be paid by the Corporation to the holders of the nonvoting common stock of the Corporation, subject to paragraphs (2) and (3) of subsection (c).

"(e) PREFERRED STOCK.—

"(1) AUTHORITY OF BOARD.—The Corporation is authorized to issue nonvoting preferred stock having such par value as may be fixed by the Board from time to time. Such preferred stock issued shall be freely transferable, except that, as to the Corporation, such stock shall be transferred only on the books of the Association.

101 STAT. 1694

"(2) RIGHTS OF PREFERRED STOCK.—Subject to paragraphs (2) and (3) of subsection (c), the holders of the preferred stock shall be entitled to such rate of cumulative dividends, and such holders shall be subject to such redemption or other conversion provisions, as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

"(3) PREFERENCE ON TERMINATION OF BUSINESS.—In the event of any liquidation, dissolution, or winding up of the business of the Corporation, the holders of the preferred shares of stock shall be paid in full at the par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

12 USC 2279aa-5.

"SEC. 8.5. CERTIFICATION OF AGRICULTURAL MORTGAGE MARKETING FACILITIES.

"(a) ELIGIBILITY STANDARDS.—

"(1) ESTABLISHMENT REQUIRED.—Within 120 days after the date on which the permanent board first meets with a quorum present, the Corporation shall issue standards for the certification of agricultural mortgage marketing facilities, including eligibility standards in accordance with paragraph (2).

"(2) MINIMUM REQUIREMENTS.—To be eligible to be certified under the standards referred to in paragraph (1), an agricultural mortgage marketing facility shall—

"(A) be an institution of the Farm Credit System or a corporation, association, or trust organized under the laws of the United States or of any State;

"(B) meet or exceed capital standards established by the Board;

"(C) have as one of the purposes of the facility, the sale or resale of securities representing interests in, or obligations backed by, pools of qualified loans that have been provided guarantees by the Corporation;

"(D) demonstrate managerial ability with respect to agricultural mortgage loan underwriting, servicing, and marketing that is acceptable to the Corporation;

"(E) adopt appropriate agricultural mortgage loan underwriting, appraisal, and servicing standards and procedures that meet or exceed the standards established by the Board;

"(F) for purposes of enabling the Corporation to examine the facility, agree to allow officers or employees of the Corporation to have access to all books, accounts, financial records, reports, files, and all other papers, things, or property, of any type whatsoever, belonging to or used by the Corporation that are necessary to facilitate an examination of the operations of the facility in connection with securities, and the pools of qualified loans that back securities, for which the Corporation has provided guarantees; and

"(G) adopt appropriate minimum standards and procedures relating to loan administration and disclosure to borrowers concerning the terms and rights applicable to loans for which guarantee is provided, in conformity with uniform standards established by the Corporation.

"(3) NONDISCRIMINATION REQUIREMENT.—The standards established under this subsection shall not discriminate between or against Farm Credit System and non-Farm Credit System applicants.

101 STAT. 1695

"(b) CERTIFICATION BY CORPORATION.—Within 60 days after receiving an application for certification under this section, the Corporation shall certify the facility if the facility meets the standards established by the Corporation under subsection (a)(1).

"(c) MAXIMUM TIME PERIOD FOR CERTIFICATION.—Any certification by the Corporation of an agricultural mortgage marketing facility shall be effective for a period determined by the Corporation of not to exceed 5 years.

"(d) REVOCATION.—

"(1) IN GENERAL.—After notice and an opportunity for a hearing, the Corporation may revoke the certification of an agricultural mortgage marketing facility if the Corporation determines that the facility no longer meets the standards referred to in subsection (a).

"(2) EFFECT OF REVOCATION.—Revocation of a certification shall not affect any pool guarantee that has been issued by the Corporation.

"(e) AFFILIATION OF FCS INSTITUTIONS WITH FACILITY.—

"(1) ESTABLISHMENT OF AFFILIATE AUTHORIZED.—Notwithstanding any other provision of this Act, any Farm Credit System institution (other than the Corporation), acting for such institution alone or in conjunction with one or more other such institutions, may establish and operate, as an affiliate, an agricultural mortgage marketing facility if, within a reasonable time after such establishment, such facility obtains and thereafter retains certification under subsection (b) as a certified facility.

"(2) EXCLUSIVE AGENCY AGREEMENT AUTHORIZED.—Any number of Farm Credit System institutions (other than the Corporation) may enter into an agreement with any certified facility (including an affiliate established under paragraph (1)) to sell the qualified loans of such institutions exclusively to or through the facility.

"SEC. 8.6. GUARANTEE OF QUALIFIED LOANS. 12 USC 2279aa-6.

"(a) GUARANTEE AUTHORIZED FOR CERTIFIED FACILITIES.—

"(1) IN GENERAL.—Subject to the requirements of this section and on such other terms and conditions as the Corporation shall consider appropriate, the Corporation shall guarantee the timely payment of principal and interest on the securities issued by a certified facility that represents interests in, or obligations backed by, any pool of qualified loans held by such facility.

"(2) INABILITY OF FACILITY TO PAY.—If the facility is unable to make any payment of principal or interest on any security for which a guarantee has been provided by the Corporation under paragraph (1), subject to the provisions of subsection (b) the Corporation shall make such payment as and when due in cash, and on such payment shall be subrogated fully to the rights satisfied by such payment.

"(3) POWER OF CORPORATION.—Notwithstanding any other provision of law, the Corporation is empowered, in connection with any guarantee under this subsection, whether before or after any default, to provide by contract with the facility for the extinguishment, on default by the facility, of any redemption, equitable, legal, or other right, title, or interest of the facility in any mortgage or mortgages constituting the pool against which the guaranteed securities are issued. With respect to any issue of guaranteed securities, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such pool shall become the absolute property of the Corporation subject only to the unsatisfied rights of the holders of the securities based on and backed by such pool. Contracts.

"(b) RESERVE OR SUBORDINATED PARTICIPATION REQUIREMENTS.—In the case of any pool referred to in subsection (a), the Corporation shall—

"(1) provide a guarantee only with respect to an individual pool of qualified loans on application of a certified facility;

"(2) provide a guarantee only if a reserve, or retained subordinated participating interests, in an amount equal to at least 10 percent of the outstanding principal amount of the loans constituting the pool has been established in accordance with this title;

"(3) require that full recourse be taken against reserves and retained subordinated participating interests before any

demand be made by the certified facility with respect to the guarantee of the Corporation; and

"(4) ensure the timely receipt of principal and interest due to security or obligation holders only after full recourse has been taken against such reserves and retained subordinated participating interests.

"(c) STANDARDS REQUIRING DIVERSIFIED POOLS.—

"(1) IN GENERAL.—To reduce the risks incurred by the Corporation in providing guarantees under this section and to further the purposes of this title, the Board shall establish standards governing the composition of each pool of qualified loans (in connection with which such guarantees are provided) over the period during which the commitment to provide guarantees is effective.

"(2) MINIMUM CRITERIA.—The standards established by the Board pursuant to paragraph (1) for pools of qualified loans shall, at a minimum—

"(A) require that each pool consist of loans that—

"(i) are secured by agricultural real estate that is widely distributed geographically;

"(ii) vary widely in terms of amounts of principal; and

"(iii) in the case of land used in the production of agricultural commodities, are secured by agricultural real estate that, in the aggregate, is used to produce a wide range of agricultural commodities;

"(B) prohibit the inclusion in any such pool of—

"(i) any loan the principal amount of which exceeds 3.5 percent of the aggregate amount of principal of all loans in such pool; and

"(ii) 2 or more loans to related borrowers; and

"(C) require that each pool consist of not less than 50 loans.

"(3) SMALL FARMS AND FAMILY FARMERS.—In establishing the standards described in paragraph (2)(A)(ii), the Board shall include provisions that promote and encourage the inclusion of loans for small farms and family farmers in pools of qualified loans.

101 STAT. 1697

"(4) CONGRESSIONAL REVIEW.—No standard prescribed under this subsection shall take effect before the later of—

"(A) the end of a period consisting of 30 legislative days and beginning on the date such standards are submitted to Congress; or

"(B) the end of a period consisting of 90 calendar days and beginning on such date.

"(d) OTHER RESPONSIBILITIES OF AND LIMITATIONS ON CERTIFIED FACILITIES.—As a condition for providing any guarantees under this section for securities issued by a certified facility that represent interests in, or obligations backed by, any pool of qualified loans, the Corporation shall require such facility to agree to comply with the following requirements:

"(1) LOAN DEFAULT RESOLUTION.—The facility shall act in accordance with the standards of a prudent institutional lender to resolve loan defaults.

"(2) SUBROGATION OF UNITED STATES AND CORPORATION TO INTERESTS OF FACILITY.—The proceeds of any collateral, judgments, settlements, or guarantees received by the facility with respect to any loan in such pool, shall be applied, after payment of costs of collection—

"(A) first, to reduce the amount of any principal outstanding on any obligation of the Corporation that was purchased by the Secretary of the Treasury under section 8.13 to the extent the proceeds of such obligation were used to make guarantees in connection with such securities; and

"(B) second, to reimburse the Corporation for any such guarantee payments.

"(3) LOAN SERVICING.—The originator of any loan in such pool shall be permitted to retain the right to service the loan.

"(4) LOANS WITH RECOURSE TO ORIGINATOR PROHIBITED.—Each loan in the pool shall have been sold to the certified facility without recourse to the originator of such loan (other than recourse to any interest of such originator in a reserve established in connection with such loan or any subordinated participation interest of such originator in such loan).

"(5) COMPLIANCE WITH DIVERSIFIED POOL STANDARDS.—The facility shall comply with the standards adopted by the Board under subsection (c) in establishing and maintaining the pool.

"(6) MINORITY PARTICIPATION IN PUBLIC OFFERINGS.—The facility shall take such steps as may be necessary to ensure that minority owned or controlled investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public offering of securities.

"(7) NO DISCRIMINATION AGAINST STATES WITH BORROWERS RIGHTS.—The facility may not refuse to purchase qualified loans originating in States that have established borrowers rights laws either by statute or under the constitution of such States, except that the facility may require discounts or charge fees reasonably related to costs and expenses arising from such statutes or constitutional provisions.

"(e) ADDITIONAL AUTHORITY OF THE BOARD.—To ensure the liquidity of securities for which guarantees have been provided under this section, the Board shall adopt appropriate standards regarding— 101 STAT. 1698

"(1) the characteristics of any pool of qualified loans serving as collateral for such securities;

"(2) registration requirements (if any) with respect to such securities; and

"(3) transfer requirements.

"(f) AGGREGATE PRINCIPAL AMOUNTS OF QUALIFIED LOANS.—

"(1) INITIAL YEAR.—During the first year after the effective date of this title, the Corporation may not provide guarantees for securities representing interests in, or obligations backed by, qualified loans (other than loans which back securities issued by Farm Credit System institutions for which the Corporation provides a guarantee) in an aggregate principal amount in excess of 2 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year (as published by the Board of Governors of the Federal Reserve System), less all Farmers Home Administration agricultural real estate debt.

"(2) SECOND YEAR.—During the year following the year referred to in paragraph (1), the Corporation may not provide guarantees for securities representing interests in, or obligations backed by, qualified loans (other than loans which back securities issued by Farm Credit System institutions for which the Corporation provides a guarantee) in an additional principal amount in excess of 4 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year, less all Farmers Home Administration agricultural real estate debt.

"(3) THIRD YEAR.—During the year following the year referred to in paragraph (2), the Corporation may not provide guarantees for securities representing interests in, or obligations backed by, qualified loans (other than loans which back securities issued by Farm Credit System institutions for which the Corporation provides a guarantee) in an additional principal amount in excess of 8 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year, less all Farmers Home Administration agricultural real estate debt.

"(4) SUBSEQUENT YEARS.—In years subsequent to the year referred to in paragraph (3), the Corporation may provide guarantees without regard to the principal amount of the qualified loans guaranteed.

12 USC 2279aa-7.

"SEC. 8.7. RESERVES AND SUBORDINATED PARTICIPATION INTERESTS OF CERTIFIED FACILITIES.

"(a) CASH CONTRIBUTIONS.—

"(1) CONTRIBUTIONS BY ORIGINATORS.—For each pool of loans, a certified facility and the participating originators may each contribute a share of the minimum reserve required under section 8.6(b)(2).

"(2) COMPOSITION OF RESERVES.—The reserves required under this section, other than retained subordinated participation interests, shall be held in the form of United States Treasury securities or other securities issued, guaranteed, or insured by an agency or instrumentality of the United States Government.

"(3) USE AND DISPOSITION OF ASSETS IN RESERVE.—Subject to the requirements of subsection (c), any certified facility that establishes a reserve pursuant to this subsection shall be required by the Corporation to maintain such reserve as a segregated account consisting of the amounts contributed (but not the earnings accruing on such amounts) to ensure the repayment of principal of, and the payment of interest on, the securities representing an interest in, or obligations backed by, the pool of qualified loans with respect to which such reserve is established.

101 STAT. 1699

"(b) RETENTION OF SUBORDINATED PARTICIPATION INTERESTS.—

"(1) IN GENERAL.—A certified facility may meet the requirements of section 8.6(b)(2) with respect to any pool of qualified loans by retaining a subordinated participation interest in each loan included in each such pool in an amount not less than the amount that is equal to 10 percent of the principal amount of such loan.

"(2) RETENTION OF SUCH INTERESTS BY LOAN ORIGINATORS.—Under the terms of the sale of any qualified loan by the originator of such loan to a certified facility, the originator of such loan may agree to retain a subordinated participation interest in such loan and the amount of the subordinated interest so retained by such loan originator shall be attributed to the facility for purposes of determining whether the requirements of paragraph (1) have been met.

"(3) DISTRIBUTION RIGHTS OF HOLDERS OF SUBORDINATED INTERESTS.—The rights of the holders of the subordinated participation interests to receive distributions with respect to the loans constituting the pool shall be subordinated as prescribed by the Corporation to enhance the likelihood of regular receipt by the other holders of interests in such pool of the full amount of scheduled payments of principal and interest on loans constituting the pool.

"(c) ADDITIONAL REQUIREMENTS RELATING TO SECTION 8.6(b)(2) RESERVES.—

"(1) DISTRIBUTION OF EARNINGS ACCRUING IN SECTION 8.6(b)(2) RESERVES.—In the case of each applicable loan pool, a certified facility shall distribute to originators, at least semiannually, any earnings on the contributions of the originators to the reserve.

"(2) EXCEPTION FOR WITHDRAWALS THAT WOULD DECREASE RESERVE LEVELS BELOW RESERVE REQUIREMENT.—No withdrawal and distribution authorized under paragraph (1) may be made to the extent such withdrawal would cause the reserve to fall below the amount required to be held in such reserve under section 8.6(b)(2).

"(3) SEPARATE LOAN LOSS ACCOUNTING.—Any certified facility that maintains a reserve (pursuant to section 8.6(b)(2)) to which any originator has contributed shall maintain separate loan loss accounting for each loan for which a contribution was made by such originator to such reserve.

"(4) LOAN LOSS ATTRIBUTION RULE.—Except for that portion of losses absorbed by a contribution of a certified facility to the

reserve as provided in subsection (a)(1), each originator participating in the pool shall absorb any losses on loans originated up to the total amount the originator has contributed to the reserve before the losses are absorbed by the contributions of other originators who are participating in the pool.

"(d) AUTHORITY OF BOARD TO ESTABLISH OTHER POLICIES AND PROCEDURES.—The Board may establish such other policies and procedures with respect to—

"(1) the establishment of reserves and the retention of subordinated participation interests under this section; and

"(2) the manner in which such reserves or interests shall be available to make payments of interest on, and repayments of principal of, securities for which the Corporation has provided guarantees, as the Board determines to be necessary or appropriate to carry out the purposes of this title.

"SEC. 8.8. STANDARDS FOR QUALIFIED LOANS.

12 USC 2279aa-8.

"(a) STANDARDS.—Not later than 120 days after the appointment and election of the Board, the Corporation, in consultation with originators, shall establish uniform underwriting, security appraisal, and repayment standards for qualified loans. In establishing standards for qualified loans, the Corporation shall confine corporate operations, so far as practicable, to mortgage loans that are deemed by the Board to be of such quality so as to meet, substantially and generally, the purchase standards imposed by private institutional mortgage investors.

"(b) MINIMUM CRITERIA.—To further the purpose of this title to provide a new source of long-term fixed rate financing to assist farmers and ranchers to purchase agricultural real estate, the standards established by the Board pursuant to subsection (a) shall, at a minimum—

"(1) provide that no agricultural mortgage loan with a loan-to-value ratio in excess of 80 percent may be treated as a qualified loan;

"(2) require each borrower to demonstrate sufficient cash-flow to adequately service the agricultural mortgage loan;

"(3) contain sufficient documentation standards;

"(4) contain adequate standards to protect the integrity of the appraisal process with respect to any agricultural mortgage loans;

"(5) contain adequate standards to ensure that the borrower is or will be actively engaged in agricultural production, and require the borrower to certify to the originator that the borrower intends to continue agricultural production on the site involved;

"(6) minimize speculation in agricultural real estate for nonagricultural purposes; and

"(7) in establishing the value of agricultural real estate, consider the purpose for which the real estate is taxed.

"(c) LOAN AMOUNT LIMITATION.—

"(1) IN GENERAL.—A loan may not be treated as a qualified loan if the principal amount of such loan exceeds $2,500,000, adjusted for inflation, except as provided in paragraph (2).

"(2) ACREAGE EXCEPTION.—Paragraph (1) shall not apply with respect to any agricultural mortgage loan described in such paragraph if such loan is secured by agricultural real estate that, in the aggregate, comprises not more than 1,000 acres.

"(d) CONGRESSIONAL REVIEW.—No standard prescribed under subsection (a) shall take effect before the later of—

"(1) the end of a period consisting of 30 legislative days and beginning on the date such standards are submitted to the Congress; or

"(2) the end of a period consisting of 90 calendar days and beginning on such date.

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"(e) NONDISCRIMINATION REQUIREMENT.—The standards established under subsection (a) shall not discriminate against small originators or small agricultural mortgage loans that are at least $50,000.

12 USC 2279aa-9.

"SEC. 8.9. EXEMPTION FROM RESTRUCTURING AND BORROWERS RIGHTS PROVISIONS FOR POOLED LOANS.

"(a) RESTRUCTURING.—Notwithstanding any other provision of law, sections 4.14, 4.14A, 4.14B, 4.14C, and 4.37 shall not apply to any loan included in a pool of qualified loans backing securities or obligations for which the Corporation provides guarantee. The loan servicing standards established by the Corporation shall be patterned after similar standards adopted by other federally sponsored secondary market facilities.

"(b) BORROWERS RIGHTS.—At the time of application for a loan, originators that are Farm Credit System institutions shall give written notice to each applicant of the terms and conditions of the loan, setting forth separately terms and conditions for pooled loans and loans that are not pooled. This notice shall include a statement, if applicable, that the loan may be pooled and that, if pooled, sections 4.14, 4.14A, 4.14B, 4.14C, and 4.37 shall not apply. This notice also shall inform the applicant that he or she has the right not to have the loan pooled. Within 3 days from the time of commitment, an applicant has the right to refuse to allow the loan to be pooled, thereby retaining rights under sections 4.14, 4.14A, 4.14B, 4.14C, and 4.37, if applicable.

12 USC 2279aa-10.

"SEC. 8.10. FUNDING FOR GUARANTEE; RESERVES OF CORPORATION.

"(a) GUARANTEE.—The Corporation shall provide guarantees for securities representing interests in, or obligations backed by, pools of qualified loans through commitments issued by the Corporation providing for guarantees.

"(b) GUARANTEE FEES.—

"(1) INITIAL FEE.—At the time a guarantee is issued by the Corporation, the Corporation shall assess the certified facility a fee of not more than ½ of 1 percent of the initial principal amount of each pool of qualified loans.

"(2) ANNUAL FEES.—Beginning in the second year after the date the guarantee is issued under paragraph (1), the Corporation may, at the end of each year, assess the certified facility an annual fee of not more than ½ of 1 percent of the principal amount of the loans then constituting the pool.

"(3) DETERMINATION OF AMOUNT.—The Corporation shall establish such fees on the amount of risk incurred by the Corporation in providing the guarantees with respect to which such fee is assessed, as determined by the Corporation. Fees assessed under paragraphs (1) and (2) shall be established on an actuarially sound basis.

Reports.

"(4) ANNUAL REVIEW BY GAO.—The Comptroller General of the United States shall annually review, and submit to the Congress a report regarding, the actuarial soundness and reasonableness of the fees established by the Corporation under this subsection.

"(c) CORPORATION RESERVE AGAINST GUARANTEES LOSSES REQUIRED.—

"(1) IN GENERAL.—So much of the fees assessed under this

101 STAT. 1702

section as the Board determines to be necessary shall be set aside by the Corporation in a segregated account as a reserve against losses arising out of the guarantee activities of the Corporation.

"(2) EXHAUSTION OF RESERVE REQUIRED.—The Corporation may not issue obligations to the Secretary of the Treasury under section 8.13 in order to meet the obligations of the Corporation with respect to any guarantees provided under this title until the reserve established under paragraph (1) has been exhausted.

"(d) FEES TO COVER ADMINISTRATIVE COSTS AUTHORIZED.—The Corporation may impose charges or fees in reasonable amounts in connection with the administration of its activities under this title to recover its costs for performing such administration.

"SEC. 8.11. SUPERVISION, EXAMINATION, AND REPORT OF CONDITION. 12 USC 2279aa-11.

"(a) REGULATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, the regulatory authority of the Farm Credit Administration with respect to the Corporation shall be confined to—

"(A) providing for the examination of the condition of the Corporation; and

"(B) providing for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation by this title, including through the use of the enforcement powers of the Farm Credit Administration under part C of title V.

"(2) CONSIDERATIONS.—In exercising its authority pursuant to this section, the Farm Credit Administration shall consider—

"(A) the purposes for which the Corporation was created;

"(B) the practices appropriate to the conduct of secondary markets in agricultural loans; and

"(C) the reduced levels of risk associated with appropriately structured secondary market transactions.

"(b) EXAMINATIONS AND AUDITS.—

"(1) IN GENERAL.—The financial transactions of the Corporation shall be examined by examiners of the Farm Credit Administration in accordance with the principles and procedures applicable to commercial corporate transactions under such rules and regulations as may be prescribed by the Administration.

"(2) FREQUENCY.—The examinations shall occur at such times as the Farm Credit Administration Board may determine, but in no event less than once each year.

"(3) ACCESS.—The examiners shall—

"(A) have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit; and

"(B) be afforded full access for verifying transactions with certified facilities and other entities with whom the Corporation conducts transactions.

"(c) ANNUAL REPORT OF CONDITION.—The Corporation shall make and publish an annual report of condition as prescribed by the Farm Credit Administration. Each report shall contain financial statements prepared in accordance with generally accepted accounting principles and contain such additional information as the Farm Credit Administration may by regulation prescribe. The financial statements of the Corporation shall be audited by an independent public accountant. 101 STAT. 1703

"(d) FCA ASSESSMENTS TO COVER COSTS.—The Farm Credit Administration shall assess the Corporation for the cost to the Administration of any regulatory activities conducted under this section, including the cost of any examination.

"SEC. 8.12. SECURITIES IN CREDIT ENHANCED POOLS. 12 USC 2279aa-12.

"(a) FEDERAL LAWS.—

"(1) APPLICABILITY OF CERTAIN FEDERAL SECURITIES LAWS.—For purposes of section 3(a)(2) of the Securities Act of 1933, no security representing an interest in a pool of qualified loans for which guarantees have been provided by the Corporation shall be deemed to be a security issued or guaranteed by a person controlled or supervised by, or acting as an instrumentality of, the Government of the United States. No such security shall be deemed to be a 'government security' for purposes of the Securities Exchange Act of 1934 or for purposes of the Investment Company Act of 1940.

"(2) NO FULL FAITH AND CREDIT OF THE UNITED STATES.—Each security for which credit enhancement has been provided by the Corporation shall clearly indicate that the security is not an obligation of, and is not guaranteed as to principal or interest by, the Farm Credit Administration, the United States, or any other agency or instrumentality of the United States (other than the Corporation).

"(b) STATE SECURITIES LAWS.—

"(1) GENERAL EXEMPTION.—Any security or obligation that has been provided a guarantee by the Corporation shall be exempt from any law of any State with respect to or requiring registration or qualification of securities or real estate to the same extent as any obligation issued by, or guaranteed as to principal and interest by, the United States or any agency or instrumentality of the United States.

"(2) STATE OVERRIDE.—The provisions of paragraph (1) shall not be applicable to any State that, during the 8-year period beginning on the effective date of this title, enacts a law that—

"(A) specifically refers to this subsection; and

"(B) expressly provides that paragraph (1) shall not apply to the State.

Business and industry.

"(c) AUTHORIZED INVESTMENTS.—

"(1) IN GENERAL.—Securities representing an interest in, or obligations backed by, pools of qualified loans with respect to which the Corporation has provided a guarantee shall be authorized investments of any person, trust, corporation, partnership, association, business trust, or business entity created pursuant to or existing under the laws of the United States or any State to the same extent that the person, trust, corporation, partnership, association, business trust, or business entity is authorized under any applicable law to purchase, hold, or invest in obligations issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality of the United States. Such securities or obligations may be accepted as security for all fiduciary, trust, and public funds, the investment or deposits of which shall be under the authority and control of the United States or any State or any officers of either.

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"(2) STATE LIMITATIONS ON PURCHASE, HOLDING, OR INVESTMENT.—If State law limits the purchase, holding, or investment in obligations issued by the United States by the person, trust, corporation, partnership, association, business trust, or business entity, securities or obligations of a certified facility issued on which the Corporation has provided a guarantee shall be considered to be obligations issued by the United States for purposes of the limitation.

"(3) NONAPPLICABILITY OF PROVISIONS.—

"(A) SUBSEQUENT STATE LAW.—Paragraphs (1) and (2) shall not apply with respect to a particular person, trust, corporation, partnership, association, business trust, or business entity, or class thereof, in any State that, prior to the expiration of the 8-year period beginning on the date of the enactment of this title, enacts a law that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in the securities by any person, trust, corporation, partnership, association, business trust, or business entity, or class thereof, than is provided in paragraphs (1) and (2).

"(B) EFFECT OF SUBSEQUENT STATE LAW.—The enactment by any State of a law of the type described in subparagraph (A) shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior to the effective date of the law and shall not require the sale or other disposition of any securities acquired prior to the effective date of the law.

"(d) STATE USURY LAWS SUPERSEDED.—Any provision of the constitution or law of any State which expressly limits the rate or

amount of interest, discount points, finance charges, or other charges that may be charged, taken, received, or reserved by agricultural lenders or certified facilities shall not apply to any agricultural loan made by an originator or a certified facility in accordance with this title that is included in a pool for which the Corporation has provided a guarantee.

"SEC. 8.13. AUTHORITY TO ISSUE OBLIGATIONS TO COVER GUARANTEE LOSSES OF CORPORATION. 12 USC 2279aa-13.

"(a) SALE OF OBLIGATIONS TO TREASURY.—

"(1) IN GENERAL.—Subject to the limitations contained in sections 8.6(b) and 8.10(c) and the requirement of paragraph (2), the Corporation may issue obligations to the Secretary of the Treasury the proceeds of which may be used by the Corporation solely for the purpose of fulfilling the obligations of the Corporation under any guarantee provided by the Corporation under this title.

"(2) CERTIFICATION.—The Secretary of the Treasury may purchase obligations of the Corporation under paragraph (1) only if the Corporation certifies to the Secretary that—

"(A) the requirements of sections 8.6(b) and 8.10(c) have been fulfilled; and

"(B) the proceeds of the sale of such obligations are needed to fulfill the obligations of the Corporation under any guarantee provided by the Corporation under this title.

"(b) EXPEDITIOUS TRANSACTION REQUIRED.—Not later than 10 business days after receipt by the Secretary of the Treasury of any certification by the Corporation under subsection (a)(2), the Secretary of the Treasury shall purchase obligations issued by the Corporation in an amount determined by the Corporation to be sufficient to meet the guarantee liabilities of the Corporation. 101 STAT. 1705

"(c) LIMITATION ON AMOUNT OF OUTSTANDING OBLIGATIONS.—The aggregate amount of obligations issued by the Corporation under subsection (a)(1) which may be held by the Secretary of the Treasury at any time (as determined by the Secretary) shall not exceed $1,500,000,000.

"(d) TERMS OF OBLIGATION.—

"(1) INTEREST.—Each obligation purchased by the Secretary of the Treasury shall bear interest at a rate determined by the Secretary, taking into consideration the average rate on outstanding marketable obligations of the United States as of the last day of the last calendar month ending before the date of the purchase of such obligation.

"(2) REDEMPTION.—The Secretary of the Treasury shall require that such obligations be repurchased by the Corporation within a reasonable time.

"(e) COORDINATION WITH TITLE 31, UNITED STATES CODE.—

"(1) AUTHORITY TO USE PROCEEDS FROM SALE OF TREASURY SECURITIES.—For the purpose of purchasing obligations of the Corporation, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale by the Secretary of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include such purchases.

"(2) TREATMENT OF TRANSACTIONS.—All purchases and sales by the Secretary of the Treasury of obligations issued by the Corporation under this section shall be treated as public debt transactions of the United States.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Treasury $1,500,000,000, without fiscal year limitation, to carry out the purposes of this title.

"SEC. 8.14. FEDERAL JURISDICTION. 12 USC 2279aa-14.

"Notwithstanding section 1349 of title 28, United States Code, or any other provision of law:

"(1) The Corporation shall be considered an agency under sections 1345 and 1442 of such title.

"(2) All civil actions to which the Corporation is a party shall be deemed to arise under the laws of the United States and, to the extent applicable, shall be deemed to be governed by Federal common law. The district courts of the United States shall have original jurisdiction of all such actions, without regard to amount of value.

"(3) Any civil or other action, case, or controversy in a court of a State or any court, other than a district court of the United States, to which the Corporation is a party may at any time before trial be removed by the Corporation, without the giving of any bond or security—

"(A) to the District Court of the United States for the district and division embracing the place where the same is pending; or

"(B) if there is no such district court, to the District Court of the United States for the district in which the principal office of the Corporation is located;

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by following any procedure for removal for causes in effect at the time of such removal.

"(4) No attachment or execution shall be issued against the Corporation or any of the property of the Corporation before final judgment in any Federal, State, or other court.".

SEC. 703. GAO AUDIT OF FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

Section 9105(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) FEDERAL AGRICULTURAL MORTGAGE CORPORATION.—

"(A) AUDITS AUTHORIZED.—Notwithstanding any other provision of law and under such regulations as the Comptroller General may prescribe, the Comptroller General shall perform a financial audit of the Federal Agricultural Mortgage Corporation on whatever basis the Comptroller General determines to be necessary.

"(B) COOPERATION OF CORPORATION REQUIRED.—The Federal Agricultural Mortgage Corporation shall—

"(i) make available to the Comptroller General for audit all records and property of, or used or managed by, the Association which may be necessary for the audit; and

"(ii) provide the Comptroller General with facilities for verifying transactions with the balances or securities held by any depositary, fiscal agent, or custodian.".

12 USC 2279aa note.

SEC. 704. GAO STUDIES.

(a) STUDIES REQUIRED.—The Comptroller General of the United States shall conduct studies of the following:

(1) The implementation of the amendments made by this title by the Federal Agricultural Mortgage Corporation and the effect of the operations of the Corporation on producers, the Farm Credit System, and other lenders, and the capital markets.

(2) The feasibility and appropriateness of promoting the establishment of a secondary market for securities representing interests in, or obligations backed by, pools of agricultural real estate loans for which a guarantee has not been provided by the Federal Agricultural Mortgage Corporation.

(3) The feasibility of expanding the authority granted under the amendments made by this title to authorize the sale of securities based on or backed by a trust or pool consisting of loans made to farm-related and rural small businesses. For purposes of the preceding sentence, the term "farm-related businesses" means businesses 90 percent or more of the annual dollar volume of the sales of which are made to agricultural producers.

(b) SUBMISSION OF REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall transmit to the Congress a report on the studies required by subsection (a), including therein such recommendations for administrative action and legislation as may be appropriate.

SEC. 705. CONFORMING AMENDMENTS.

(a) FEDERAL LAND BANKS.—Section 1.4 (12 U.S.C. 2012) is amended by adding at the end thereof the following new paragraph: 101 STAT. 1707

"(23) Operate as an originator and to become certified as a certified facility under title VIII.".

(b) FEDERAL LAND BANK ASSOCIATIONS.—Section 1.15 (12 U.S.C. 2033) is amended by adding at the end thereof the following new paragraph:

"(22) Operate as an originator and to become certified as a certified facility under title VIII.".

(c) FEDERAL INTERMEDIATE CREDIT BANKS.—Section 2.1 (12 U.S.C. 2072) is amended by adding at the end thereof the following new paragraph:

"(21) Operate as an originator and to become certified as a certified facility under title VIII.".

(d) PRODUCTION CREDIT ASSOCIATIONS.—Section 2.12 (12 U.S.C. 2093) is amended by adding at the end thereof the following new paragraph:

"(21) Operate as an originator and to become certified as a certified facility under title VIII.".

Subtitle B—Farmers Home Administration Loans

SEC. 711. IMPROVEMENT OF SECONDARY MARKET OPERATIONS FOR LOANS GUARANTEED BY THE FARMERS HOME ADMINISTRATION.

(a) IN GENERAL.—Section 338 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1988) is amended by adding at the end thereof the following:

"(f)(1)(A) The guaranteed portion of any loan made under this title may be sold by the lender, and by any subsequent holder, in accordance with regulations governing such sales as the Secretary shall establish, subject to the following limitations:

"(i) All fees due the Secretary with respect to a guaranteed loan are to be paid in full before any sale.

"(ii) The loan is to have been fully disbursed to the borrower before the sale.

"(B) After a loan is sold in the secondary market, the lender shall remain obligated under its guarantee agreement with the Secretary, and shall continue to service the loan in accordance with the terms and conditions of such agreement. Contracts.

"(C) The Secretary shall develop such procedures as are necessary for the facilitation, administration, and promotion of secondary market operations, and for determining the increase of farmers' access to capital at reasonable rates and terms as a result of secondary market operations.

"(D) This subsection shall not be interpreted to impede or extinguish the right of the borrower or the successor in interest to such borrower to prepay (in whole or in part) any loan made under this title, or to impede or extinguish the rights of any party under any provision of this title.

"(2)(A) The Secretary may, directly or through a market maker approved by the Secretary, issue pool certificates representing ownership of part or all of the guaranteed portion of any loan guaranteed by the Secretary under this title. Such certificates shall be based on and backed by a pool established or approved by the

101 STAT. 1708 Secretary and composed solely of the entire guaranteed portion of such loans.

"(B) The Secretary may, on such terms and conditions as the Secretary deems appropriate, guarantee the timely payment of the principal and interest on pool certificates issued on behalf of the Secretary by approved market makers for purposes of this subsection. Such guarantee shall be limited to the extent of principal and interest on the guaranteed portions of loans that compose the pool. If a loan in such pool is prepaid, either voluntarily or by reason of default, the guarantee of timely payment of principal and interest on the pool certificates shall be reduced in proportion to the amount of principal and interest such prepaid loan represents in the pool. Interest on prepaid or defaulted loans shall accrue and be guaranteed by the Secretary only through the date of payment on the guarantee. During the term of the pool certificate, the certificate may be called for redemption due to prepayment or default of all loans constituting the pool.

"(C) The full faith and credit of the United States is pledged to the payment of all amounts that may be required to be paid under any guarantee of such pool certificates issued by approved market makers under this subsection. The Secretary may expend amounts in the Agricultural Credit Insurance Fund to make payments on such guarantees.

"(D) The Secretary shall not collect any fee for any guarantee under this subsection. The preceding sentence shall not preclude the Secretary from collecting a fee for the functions described in paragraph (3).

"(E) Within 30 days after a borrower of a guaranteed loan is in default of any principal or interest payment due for 60 days or more, the Secretary shall—

"(i) purchase the pool certificates representing ownership of the guaranteed portion of the loan; and

"(ii) pay the registered holder of the certificates an amount equal to the guaranteed portion of the loan represented by the certificate.

Claims.

"(F)(i) If the Secretary pays a claim under a guarantee issued under this subsection, the claim shall be subrogated fully to the rights satisfied by such payment, as may be provided by the Secretary.

"(ii) No State or local law, and no Federal law, shall preclude or limit the exercise by the Secretary of the Secretary's ownership rights in the portions of loans constituting the pool against which the certificates are issued.

"(3) On the adoption of final rules and regulations, the Secretary shall do the following:

"(A) Provide for the central collection of registration information from all participating market makers for all loans and pool certificates sold under paragraphs (1) and (2). Such information shall include, with respect to each original sale and any subsequent sale, identification of the interest rate paid by the borrower to the lender, the lender's servicing fee, whether interest on the loan is at a fixed or variable rate, identification of each purchaser of a pool certificate, the interest rate paid on the certificate, and such other information as the Secretary deems appropriate.

"(B) Before any sale, require the seller to disclose to each
101 STAT. 1709 prospective purchaser of the portion of a loan guaranteed under this title and to each prospective purchaser of a pool certificate issued under paragraph (2), information on the terms, conditions, and yield of such instrument. As used in this subparagraph, if the instrument being sold is a loan, the term 'seller' does not include (i) the person who made the loan or (ii) any person who sells three or fewer guaranteed loans per year.

"(C) Provide for adequate custody of any pooled guaranteed loans.

"(D) Take such actions as are necessary, in restructuring pools of the guaranteed portion of loans, to minimize the esti-

mated costs of paying claims under guarantees issued under this subsection.

"(E) Require each market maker—

"(i) to service all pools formed, and participations sold, by the market maker; and

"(ii) to provide the Secretary with information relating to the collection and disbursement of all periodic payments, prepayments, and default funds from lenders, to or from the reserve fund that the Secretary shall establish to enable the timely payment guarantee to be self-funding, and from all beneficial holders.

"(F) Regulate market makers in pool certificates sold under this subsection.

"(4)(A) Not later than March 31 of each year, the Secretary shall transmit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report on the secondary market operations under this subsection during the preceding calendar year. Reports.

"(B) Each report under subparagraph (A) shall include—

"(i) the number and the total dollar amount of loans sold in the secondary market and the distribution of such loans by size of loan, size of lender, geographic location of lender, interest rate, maturity, lender servicing fees, whether the interest rate is fixed or variable, and premium paid;

"(ii) the number and dollar amount of loans resold in the secondary market and the distribution of such loans by size of loan, interest rate, and premiums;

"(iii) the number and total dollar amount of pools formed;

"(iv) the number and total dollar amount of loans in each pool;

"(v) the dollar amount, interest rate, and terms on each loan in each pool, and whether the interest rate is fixed or variable;

"(vi) the number, face value, interest rate, and terms of the pool certificates issued for each pool;

"(vii) to the maximum extent possible, the use by the lender of the proceeds of sales of loans in the secondary market for additional lending to farmers; and

"(viii) an analysis of the information reported in clauses (i) through (vii) to assess farmers' access to capital at reasonable rates and terms as a result of secondary market operations.".

(b) REGULATIONS.—Within 180 days after the date of the enactment of this Act, the Secretary shall develop and promulgate final regulations to implement this section and the amendment made by this section. 7 USC 1988 note.

(c) POOL CERTIFICATES NOT TO BE ISSUED UNTIL FINAL REGULATIONS TAKE EFFECT.—The Secretary of Agriculture shall not implement paragraph (2) of section 338(f) of the Consolidated Farm and Rural Development Act, as added by subsection (a), until the final regulations governing the administration of such paragraph take effect. 7 USC 1988 note.

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TITLE VIII—MISCELLANEOUS

SEC. 801. OWNERSHIP REQUIREMENT UNDER THE CONSERVATION RESERVE PROGRAM.

Section 1235(a)(1) of the Food Security Act of 1985 (16 U.S.C. 3835(a)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or" and

(3) by adding at the end thereof the following new subparagraph:

"(D) the ownership change occurred due to foreclosure on the land and the owner of the land immediately before the foreclosure exercises a right of redemption from the mortgage holder in accordance with State law.".

SEC. 802. REPEAL OF PREAPPROVAL AND RELATED AUTHORITIES.

(a) APPROVAL OF AMENDMENTS TO FEDERAL LAND BANK CHARTERS.—Section 1.3 (12 U.S.C. 2011) is amended by striking out the second sentence and inserting in lieu thereof "The Farm Credit Administration shall approve amendments consistent with this Act to charters of Federal land banks.".

(b) FEDERAL LAND BANK POWERS.—Section 1.4 (12 U.S.C. 2012) is amended—

(1) in paragraph (15), by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of";

(2) in paragraph (21), by striking out "as" and by inserting in lieu thereof "in accordance with generally accepted accounting principles, except as may be"; and

(3) in paragraph (22), by striking out "and approved by the Farm Credit Administration".

(c) LAND BANK STOCK.—Section 1.5 (12 U.S.C. 2013) is amended—

(1) in subsection (a), by striking out "with the approval of the Farm Credit Administration";

(2) in subsection (d), by striking out "and approved by the Farm Credit Administration"; and

(3) in subsection (f), by striking out "the Farm Credit Administration may approve" and inserting in lieu thereof "may be approved by the board of directors of the bank".

(d) SECURITY FOR FEDERAL LAND BANK LOANS.—Section 1.9 (12 U.S.C. 2017) is amended—

(1) in the first sentence, by striking out "approved by" and inserting in lieu thereof "prescribed by regulations of"; and

(2) in the second sentence, by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of".

(e) FCA AUTHORITY OVER FEDERAL LAND BANK ASSOCIATIONS.—The last sentence of section 1.13 (12 U.S.C. 2031) is amended—

(1) by striking out "or by approving bylaws of the association,";

(2) by striking out "direct at any time changes in" and inserting in lieu thereof "approve amendments to"; and

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(3) by striking out "as" and all that follows through "Act".

(f) LAND BANK RESERVES.—Section 1.17 (12 U.S.C. 2051) is amended—

(1) in subsection (a), by inserting "regulations of" before "the Farm Credit Administration"; and

(2) in subsection (b)—

(A) by striking out "(1)"; and

(B) by striking out "hereof, and (2) the approval of the Farm Credit Administration".

(g) ASSOCIATION RESERVES.—Section 1.18(a) (12 U.S.C. 2052(a)) is amended by inserting "regulations of" before "the Farm Credit Administration".

12 USC 2071.

(h) FEDERAL INTERMEDIATE CREDIT BANK, ESTABLISHMENT.—Section 2.0 (12 U.S.C. 2017) is amended by striking out the second sentence and inserting in lieu thereof "The Farm Credit Administration shall approve amendments consistent with this Act to charters of Federal intermediate credit banks.".

12 USC 2072.

(i) FEDERAL INTERMEDIATE CREDIT BANK, CORPORATE POWERS.—Section 2.1 (12 U.S.C. 2018) is amended—

(1) in paragraph (13), by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of"; and

(2) in paragraph (18), by striking out "and approved by the Farm Credit Administration".

12 USC 2073.

(j) FEDERAL INTERMEDIATE CREDIT BANK, STOCK.—Section 2.2 (12 U.S.C. 2019) is amended—

(1) in subsection (a), by striking out "with the approval of the Farm Credit Administration";

(2) in subsection (d), by striking out "and approved by the Farm Credit Administration"; and

(3) in subsection (g)—

(A) in the first paragraph, by striking out ", with the approval of the Farm Credit Administration,";

(B) in the second paragraph, by striking out ", with approval of the Farm Credit Administration,"; and

(C) in the first sentence of the fourth paragraph, by striking out "under" and inserting in lieu thereof "in accordance with".

(k) NET EARNINGS.—The second sentence of section 2.6(c) (12 U.S.C. 2077(a)) is amended—

(1) by striking out "approved" and inserting in lieu thereof "established"; and

(2) by inserting after "Administration" the following "in regulations".

(l) PRODUCTION CREDIT ASSOCIATIONS, CHARTER.—The last sentence of section 2.10 (12 U.S.C. 2019) is amended— 12 USC 2091.

(1) by striking out "or by approval of bylaws of the association,"; and

(2) by striking out "direct" and all that follows through the period and inserting in lieu thereof "approve amendments to the charter of such association.".

(m) BANKS FOR COOPERATIVES, ESTABLISHEMNT.—Section 3.0 (12 U.S.C. 2121) is amended by striking out the second sentence and inserting in lieu thereof "The Farm Credit Administration shall approve amendments consistent with this Act to charters and organizational certificates of banks for cooperatives.". 101 STAT. 1712

(n) BANKS FOR COOPERATIVES, CORPORATION.—Section 3.1 (12 U.S.C. 2122) is amended by striking out "and approved by the Farm Credit Administration" each place it appears.

(o) BANKS FOR COOPERATIVES, STOCK.—Section 3.3 (12 U.S.C. 2124) is amended—

(1) in subsection (a), by striking out ", with the approval of the Farm Credit Administration,";

(2) in subsection (b), by striking out "with the approval of the Farm Credit Administration"; and

(3) in subsection (e), by striking out "and approved by the Farm Credit Administration".

(p) BANKS FOR COOPERATIVES, RETIREMENT OF STOCK.—Section 3.5 (12 U.S.C. 2125) is amended by striking out "with approval of the Farm Credit Administration". 12 USC 2126.

(q) OWNERSHIP OF STOCK.—Section 3.9(a) (12 U.S.C. 2130(a)) is amended—

(1) in the first sentence, by striking out "with the approval of the Farm Credit Administration";

(2) in the second sentence, by striking out ", with the approval of the Farm Credit Administration,"; and

(3) in the third sentence, by striking out "as may be approved by the Farm Credit Administration".

(r) EARNINGS AND RESERVES.—Section 3.11 (12 U.S.C. 2131) is amended— 12 USC 2132.

(1) in subsection (b), by striking out "as may be approved by the Farm Credit Administration";

(2) in subsection (c), by striking out "the Farm Credit Administration may approve" and inserting in lieu thereof "may be approved by the board of directors"; and

(3) in subsection (d), by striking out "the Farm Credit Administration may approve" and inserting in lieu thereof "may be approved by the board of directors".

(s) POWERS OF THE FARM CREDIT ADMINISTRATION.—Section 4.26 (12 U.S.C. 2212) is amended—

(1) by striking out "or by prescribing in the terms of the charter or by approval of the bylaws of the corporation";

(2) by striking out "direct at any time" and all that follows through the period at the end of the first sentence and inserting in lieu thereof "approve amendments consistent with this Act to charters or articles of service corporations."; and

(3) by striking out the second sentence.

(t) SUPERVISION.—The heading of section 4.27 (12 U.S.C. 2213) is amended by striking out "SUPERVISION" and inserting in lieu thereof "REGULATION".

(u) DISTRICT ELECTIONS.—Section 5.2 (12 U.S.C. 2223) is amended—

(1) in subsection (b)—

(A) by striking out "Farm Credit Administration" the first place it appears and inserting in lieu thereof "district election committee of the district where the election will be held"; and

(B) by striking out "Farm Credit Administration" each place it appears thereafter and inserting in lieu thereof "district election committee";

(2) in subsection (c)—

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(A) by striking out "Farm Credit Administration" the first place it appears and inserting in lieu thereof "district election committee of the district where the election will be held";

(B) by striking out "Farm Credit Administration" each place it appears thereafter and inserting in lieu thereof "district election committee"; and

(C) by striking out "(b)" and inserting in lieu thereof "(c)"; and

(3) by redesignating subsections (b), (c), and (d), as subsections (c), (d), and (e), respectively, and inserting after subsection (a) the following:

"(b) Each district board shall designate a district election committee. No member of such district election committee shall be a candidate for election to the district board. The responsibilities and authorities of the district election committee, delegated by the district board, shall be those set forth in this section.".

(v) FARM CREDIT ADMINISTRATION, POWERS.—Section 5.17 (12 U.S.C. 2251) is amended— 12 USC 2252.

(1) in subsection (a)—

(A) in paragraph (2), by striking out "amend or modify" and inserting in lieu thereof "approve amendments to"; and

(B) in paragraph (5), by striking out "that meet standards and criteria" and all that follows through "refunds by Farm Credit System institutions"; and

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following:

"(b) The Farm Credit Administration shall not have authority, either direct or indirect, to approve bylaws, or any amendments or modifications or changes to bylaws, of System institutions.".

(w) TRANSITION RULES RELATING TO AMENDMENT OF CERTAIN FCA APPROVAL AUTHORITIES.—Part D of title V (12 U.S.C. 2001 note, et seq.) is amended by adding at the end thereof the following new section:

12 USC 2275a.

"SEC. 5.45. TRANSITION RULES RELATING TO AMENDMENT OF CERTAIN FCA APPROVAL AUTHORITIES.

"(a) IN GENERAL.—Any approvals granted by the Farm Credit Administration before the date of the enactment of this section shall remain in effect on and after such date.

"(b) AUTHORITY TO ISSUE REGULATIONS.—

"(1) IN GENERAL.—Any approval authority of the Farm Credit Administration that, under the amendments made by section 802 of the Agricultural Credit Act of 1987, became an authority to issue regulations may be exercised only until the earlier of the date the Farm Credit Administration issues final regula-

tions under such authority, or 1 year after the date of the enactment of this section.

"(2) ENFORCEMENT ACTIONS.—At the close of the 1-year period referred to in paragraph (1), the Farm Credit Administration shall not take any enforcement action against any System institution with respect to any provision so amended, until the Farm Credit Administration issues final regulations under such provision.

"(c) EFFECT OF SECTION.—This section shall not affect the authority of the Farm Credit Administration to exercise any other approval authority either on a case-by-case basis or through regulation, as provided in section 5.17(a)(5).".

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SEC. 803. SALE OF RURAL DEVELOPMENT NOTES.

Section 1001 of the Omnibus Budget Reconciliation Act of 1986 (7 U.S.C. 1929a note) is amended by adding at the end thereof the following new subsections:

"(f) RIGHT OF FIRST REFUSAL.—

"(1) IN GENERAL.—Before conducting a sale of a portfolio of notes or other obligations under this section, the Secretary of Agriculture shall—

"(A) determine whether the issuer of any unsold note or other obligation desires to purchase the note or other obligation; and

"(B) if so, hold open for 30 days, an offer to sell the note or other obligation to the issuer at a price to be determined under paragraph (2).

"(2) DETERMINATION OF OFFERING PRICE.—

"(A) AUTHORITY.—The Secretary of Agriculture shall determine, in accordance with subparagraph (B), the price at which a note or other obligation shall be offered for sale under this subsection.

"(B) PRICE.—Such price shall be determined by discounting the payment stream of such note or other obligation at the yield on the then most recent sale of the portfolio, adjusted for changes in market interest rates, servicing and sales expenses, and the maturity and interest rate of such note.

"(3) PROHIBITIONS.—

"(A) PURCHASE OF OBLIGATION NOT TIED TO PURCHASE OF OTHER OBLIGATIONS.—The Secretary of Agriculture shall not require the issuer of any unsold note or other obligation to be offered for sale under this subsection to purchase any other such note or other obligation as a condition of the sale of any such note or other obligation to the issuer.

"(B) OFFER TO BE MADE WITHOUT REGARD TO FINANCING.—The Secretary shall offer notes or other obligations for sale to the issuers thereof under this subsection without regard to the manner in which such issuers intend to finance the purchase of such notes or other obligations. However, the price of sale to any issuer using tax exempt financing shall be determined using a yield reflective of the Schedule of Certified Interest Rates as published monthly by the Secretary of the Treasury.

"(g) APPLICABILITY OF PROHIBITION ON CURTAILMENT OR LIMITATION OF SERVICE.—Section 306(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(b)) shall be applicable to all notes or other obligations sold or intended to be sold under this section.".

SEC. 804. OTHER CONFORMING AMENDMENTS.

(a) JURISDICTION AND ENFORCEMENT; PENALTIES.—

(1) JURISDICTION AND ENFORCEMENT.—Section 5.31 (12 U.S.C. 2267) is amended by adding at the end thereof the following:

"For purposes of this section, any directive issued under section 4.3(b)(2), 4.3A(e), or 4.14A(i) shall be treated as an effective and outstanding order issued under section 5.25 that has become final.".

(2) PENALTIES.—Section 5.32 (12 U.S.C. 2268) is amended by adding at the end thereof the following:

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"(h) For purposes of this section, any directive issued under section 4.3(b)(2), 4.3A(e), or 4.14A(i) shall be treated as an order that has become final and was issued under section 5.25.".

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 4.3(b) (12 U.S.C. 2154(b)(2)) is amended—

(A) by striking out "(A)"; and

(B) by striking out subparagraph (B).

(b) AMENDMENT TO PART HEADING.—The part heading of part C of title IV is amended to read as follows:

"PART C—RIGHTS OF BORROWERS; LOAN RESTRUCTURING".

SEC. 805. TECHNICAL AMENDMENTS.

12 USC 2002. (a) Section 1.2 is amended by striking out "the regulation" and inserting in lieu thereof "regulation".

12 USC 2033. (b) Section 1.15(12) is amended by striking out "or delegated to".

12 USC 2054. (c) Section 1.20 is amended by striking out "by or other" and inserting in lieu thereof "by other".

12 USC 2072. (d) Section 2.1(18) is amended by striking out the comma at the end and inserting in lieu thereof a period.

12 USC 2073. (e) Section 2.2 is amended—

(1) in subsection (d), by striking out "be issued to" the first place it appears;

(2) in subsection (f)—

(A) by striking out "other"; and

(B) by inserting "of" after "with regard to the payment";

(3) in the second sentence of the fourth undesignated paragraph of subsection (g)—

(A) by striking out "other" the first place it appears; and

(B) by inserting "the" before "Farm Credit Administration"; and

(4) in subsection (h), by striking out "the Farm Credit Administration or".

12 USC 2077. (f) Section 2.6 is amended—

(1) in subsection (c), by striking out the last sentence; and

(2) by redesignating subsections (c) and (d), as subsections (a) and (b), respectively.

12 USC 2091. (g) The last sentence of section 2.10 is amended by inserting "the" before "Farm Credit Administration" the second place it appears.

12 USC 2094. (h) Section 2.13 is amended—

(1) in subsection (c), by striking out "to other"; and

(2) in subsection (d)—

(A) by striking out "other" the first place it appears; and

(B) by inserting a comma after "noncumulative)".

12 USC 2096. (i) The section heading for section 2.15 is amended by striking out the comma and inserting in lieu thereof a semicolon.

12 USC 2098. (j) Section 2.17 is amended by inserting ", except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder" before the period at the end.

12 USC 2124. (k) Section 3.3(d) is amended by striking out "by" the first place it appears.

12 USC 2125. (l) Section 3.4 is amended by striking out "other than stock held by the Farm Credit Administration,".

(m) Section 3.8 is amended—

12 USC 2129. (1) by redesignating subsection (1) as subsection (a);

(2) by redesignating paragraphs (a), (b), (c), and (d) of the subsection redesignated by paragraph (1) of this subsection, as paragraphs (1), (2), (3), and (4), respectively; 101 STAT. 1716

(3) by redesignating clauses (1), (2), and (3) of the paragraph redesignated as paragraph (4) by paragraph (2) of this subsection, as clauses (A), (B), and (C), respectively;

(4) in the clause redesignated as clause (C) by paragraph (4), by striking out "(2)" and inserting in lieu thereof "(B)".

(n) Section 3.11 is amended— 12 USC 2132.

(1) in subsection (b)—

(A) by striking out "(c) and (d)" and inserting in lieu thereof "(b) and (c)"; and

(B) by striking out the last sentence;

(2) in subsection (c)—

(A) by striking out "(b) of this section, whichever is applicable," and inserting in lieu thereof "(a)"; and

(B) by striking out "(d)" and inserting in lieu thereof "(c)";

(3) in subsection (d), by striking out "(b) whichever is applicable," and inserting in lieu thereof "(a)";

(4) in subsection (g)—

(A) by striking out "or (b)"; and

(B) by striking out "For any year that a bank for cooperatives is subject to Federal income tax, it" and inserting in lieu thereof "A bank for cooperatives"; and

(5) by redesignating subsections (b), (c), (d), (e), (f), and (g), as subsections (a), (b), (c), (d), (e), and (f), respectively.

(o) Section 3.12 is amended by inserting "the" before "Farm Credit Administration". 12 USC 2133.

(p) Section 3.13 is amended by inserting ", except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder" before the period at the end. 12 USC 2134.

(q) Section 4.3(c) is amended by striking out "direct of fully guaranteed" and inserting in lieu thereof "direct or fully guaranteed". 12 USC 2154.

(r) Section 4.12(b) is amended by striking out "court, shall" and inserting in lieu thereof "court shall,". 12 USC 2183.

(s) Section 4.14 is amended— 12 USC 2202.

(1) by striking out "committee(s)" and inserting in lieu thereof "committees";

(2) by striking out "4.13" and inserting in lieu thereof "4.13B"; and

(3) by striking out "reviews" and inserting in lieu thereof "review".

(t) Title IV is amended—

(1) by inserting above and before section 4.15 the following:

"PART D—ACTIVITIES OF INSTITUTIONS OF THE SYSTEM"; and

(2) by redesignating part D as part E. 12 USC 2211.

(u) Title IV is amended by redesignating parts E and F, as parts G and H, respectively. 12 USC 2218, 2219.

(v) Section 5.0 is amended by striking out "5.17(2)" and inserting in lieu thereof "5.17(a)(2)". 12 USC 2221.

(w) The section heading of section 5.9 is amended by striking out "; CIVIL PROCEEDINGS". 12 USC 2243.

(x) Section 5.11 is amended by striking out the last sentence. 12 USC 2245.

(y) Section 5.16 is amended by transferring the 4 sentences immediately following paragraph (4) to just before the last sentence of such section. 12 USC 2251. 101 STAT. 1717

(z) Section 5.17(a) is amended— 12 USC 2252.

(1) by striking out paragraph (13); and

(2) by redesignating paragraphs (14) and (15), as paragraphs (13) and (14), respectively.

(aa) Section 5.28 is amended— 12 USC 2264.

(1) by inserting "(a)" before "Whenever" the first place it appears; and

(2) in subsection (e), by striking out "(d)(3)" and inserting in lieu thereof "(d)".

12 USC 2265. (bb) Section 5.29 is amended—

(1) in subsection (a)—

(A) by striking out "interest" and inserting in lieu thereof "interests";

(B) by striking out "the investors in the" and inserting in lieu thereof "investors in"; and

(C) by inserting "the" before "Farm Credit System" the third place it appears.

(2) in subsection (b), by striking out "in Farm Credit System obligations" and inserting in lieu thereof "of the institution's shareholders or the investors in Farm Credit System obligations or may threaten to impair public confidence in the institution or the Farm Credit System".

12 USC 2266. (cc) Section 5.30 is amended by striking out "subsection (g)" and inserting in lieu thereof "section".

12 USC 2268. (dd) Section 5.32(f) is amended by striking out "sections 5.31 and 5.32" and inserting in lieu thereof "section 5.31 and this section".

12 USC 2273. (ee) Section 5.37 is amended by striking out "claims,".

(ff) Section 5.41 is amended—

12 USC 393. (1) by striking out subsection (a); and

(2) by striking out "(b)".

TITLE IX—REGULATIONS

12 USC 2001 note. SEC. 901. EFFECTIVE DATES.

(a) ISSUANCE OF REGULATIONS.—

(1) AUTHORITY.—The Farm Credit Administration Board shall issue such regulations as the Board considers necessary for the orderly and efficient implementation of the provisions of, and the amendments made by, this Act relating to the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

(2) TIMING.—To the extent the Farm Credit Administration is required to issue regulations to implement this Act and the amendments made by this Act, the Farm Credit Administration shall issue such regulations as expeditiously as possible, and, except as otherwise provided in this Act, not later than 180 days after the date of the enactment of this Act.

(b) TEMPORARY RETENTION OF CERTAIN REGULATIONS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the regulations issued by the Farm Credit Administration before the date of the enactment of this Act under provisions amended by this Act shall remain in effect, notwithstanding such amendments, until the Farm Credit Administration issues regulations to implement such amendments, but in no event later than 180 days after such date of enactment.

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(2) CERTAIN REGULATIONS RELATING TO BORROWERS' RIGHTS.—The regulations implementing, interpreting, or applying part C of title IV (12 U.S.C. 2201) (other than section 4.13(a)) (in effect immediately before the date of the enactment of this Act), to the extent that such regulations are not contrary to this Act, and the amendments made by this title, shall remain in effect until January 1, 1989.

(3) REGULATIONS RELATING TO DISCLOSURE BY BANKS AND ASSOCIATIONS.—Any regulation issued or approved by the Farm Credit Administration that implements, interprets, or applies

section 4.13(a) (12 U.S.C. 2201(a)) (in effect immediately before the date of the enactment of this Act) shall remain in effect for 120 days after such date of enactment.

Approved January 6, 1988.

LEGISLATIVE HISTORY—H.R. 3030 (S. 1665):

HOUSE REPORTS: No. 100-295, Pt. 1 (Comm. on Agriculture) and No. 100-490 (Comm. of Conference).
SENATE REPORTS: No. 100-230 accompanying S. 1665 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 21, Oct. 6, considered and passed House.
Dec. 1, 2, S. 1665 considered in Senate.
Dec. 2, 4, H.R. 3030 considered and passed Senate, amended, in lieu of S. 1665.
Dec. 18, House agreed to conference report.
Dec. 19, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Jan. 6, Presidential statement.

Public Law 100-237 101 STAT. 1733
100th Congress

An Act

To improve the distribution procedures for agricultural commodities and their products donated for the purposes of assistance through the Department of Agriculture, and for other purposes.

Jan. 8, 1988
[H.R. 1340]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Commodity Distribution Reform Act and WIC Amendments of 1987.
7 USC 612c note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commodity Distribution Reform Act and WIC Amendments of 1987".

7 USC 612c note.

SEC. 2. STATEMENT OF PURPOSE; SENSE OF CONGRESS.

(a) STATEMENT OF PURPOSE.—It is the purpose of this Act to improve the manner in which agricultural commodities acquired by the Department of Agriculture are distributed to recipient agencies, the quality of the commodities that are distributed, and the degree to which such distribution reponds to the needs of the recipient agencies.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the distribution of commodities and products—

(1) should be improved as an effective means of removing agricultural surpluses from the market and providing nutritious high-quality foods to recipient agencies;

(2) is inextricably linked to the agricultural support and surplus removal programs; and

(3) is an important mission of the Secretary of Agriculture.

7 USC 612c note.

SEC. 3. COMMODITY DISTRIBUTION PROGRAM REFORMS.

(a) COMMODITIES SPECIFICATIONS.—

(1) DEVELOPMENT.—In developing specifications for commodities acquired through price support, surplus removal, and direct purchase programs of the Department of Agriculture that are donated for use for programs or institutions described in paragraph (2), the Secretary shall—

(A) consult with the advisory council established under paragraph (3);

(B) consider both the results of the information received from recipient agencies under subsection (f)(2) and the results of an ongoing field testing program under subsection

(g) in determining which commodities and products, and in which form the commodities and products, should be provided to recipient agencies; and

(C) give significant weight to the recommendations of the advisory council established under paragraph (3) in ensuring that commodities and products are—

(i) of the quality, size, and form most usable by recipient agencies; and

(ii) to the maximum extent practicable, consistent with the Dietary Guidelines for Americans published by the Secretary of Agriculture and the Secretary of Health and Human Services.

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(2) APPLICABILITY.—Paragraph (1) shall apply to—

(A) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(B) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b));

(C) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

(D) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(E) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a); and

(F) to the extent practicable—

(i) the temporary emergency food assistance program established under the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note); and

(ii) programs under which food is donated to charitable institutions.

(3) ADVISORY COUNCIL.—(A) The Secretary shall establish an advisory council on the distribution of donated commodities to recipient agencies. The Secretary shall appoint not less than nine and not more than 15 members to the council, including—

(i) representatives of recipient agencies;

(ii) representatives of food processors and food distributors;

(iii) representatives of agricultural organizations;

(iv) representatives of State distribution agency directors; and

(v) representatives of State advisory committees.

(B) The council shall meet not less than semiannually with appropriate officials of the Department of Agriculture and shall provide guidance to the Secretary on regulations and policy development with respect to specifications for commodities.

(C) Members of the council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the committee.

Reports.

(D) The council shall report annually to the Secretary of Agriculture, the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Termination date.

(E) The council shall expire on September 30, 1992.

(b) DUTIES OF SECRETARY WITH RESPECT TO PROVISION OF COMMODITIES.—With respect to the provision of commodities to recipient agencies, the Secretary shall—

(1) before the end of the 270-day period beginning on the date of the enactment of this Act—

(A) implement a system to provide recipient agencies with options with respect to package sizes and forms of such commodities, based on information received from such

agencies under subsection (f)(2), taking into account the duty of the Secretary— 101 STAT. 1735

(i) to remove surplus stocks of agricultural commodities through the Commodity Credit Corporation;

(ii) to purchase surplus agriculture commodities through section 32 of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.); and

(iii) to make direct purchases of agricultural commodities and other foods for distribution to recipient agencies under—

(I) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(II) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b));

(III) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

(IV) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(V) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a); and

(B) implement procedures to monitor the manner in which State distribution agencies carry out their responsibilities; State and local governments.

(2) provide technical assistance to recipient agencies on the use of such commodities, including handling, storage, and menu planning and shall distribute to all recipient agencies suggested recipes for the use of donated commodities and products (the recipe cards shall be distributed as soon as practicable after the date of enactment of this Act and updated on a regular basis taking into consideration the Dietary Guidelines for Americans published by the Secretary of Agriculture and the Secretary of Health and Human Services, as in effect at the time of the update of the recipe files);

(3) before the end of the 120-day period beginning on the date of the enactment of this Act, implement a system under which the Secretary shall— State and local governments.

(A) make available to State agencies summaries of the specifications with respect to such commodities and products; and

(B) require State agencies to make such summaries available to recipient agencies on request;

(4) implement a system for the dissemination to recipient agencies and to State distribution agencies— State and local governments.

(A) not less than 60 days before each distribution of commodities by the Secretary is scheduled to begin, of information relating to the types and quantities of such commodities that are to be distributed; or

(B) in the case of emergency purchases and purchases of perishable fruits and vegetables, of as much advance notification as is consistent with the need to ensure that high-quality commodities are distributed; 101 STAT. 1736

(5) before the expiration of the 90-day period beginning on the date of the enactment of this Act, establish procedures for the replacement of commodities received by recipient agencies that are stale, spoiled, out of condition, or not in compliance with the specifications developed under subsection (a)(1), including a requirement that the appropriate State distribution agency be notified promptly of the receipt of commodities that are stale, spoiled, out of condition, or not in compliance with the specifications developed under subsection (a)(1); State and local governments.

(6) monitor the condition of commodities designated for donation to recipient agencies that are being stored by or for the Secretary to ensure that high quality is maintained;

State and local governments.

(7) establish a value for donated commodities and products to be used by State agencies in the allocation or charging of commodities against entitlements; and

State and local governments.

(8) require that each State distribution agency shall receive donated commodities not more than 90 days after such commodities are ordered by such agency, unless such agency specifies a longer delivery period.

Contracts.

(c) QUALIFICATIONS FOR PURCHASE OF COMMODITIES.—

(1) OFFERS FOR EQUAL OR LESS POUNDAGE.—Subject to compliance by the Secretary with surplus removal responsibilities under other provisions of law, the Secretary may not refuse any offer in response to an invitation to bid with respect to a contract for the purchase of entitlement commodities (provided in standard order sizes) solely on the basis that such offer provides less than the total amount of poundage for a destination specified in such invitation.

(2) OTHER QUALIFICATIONS.—The Secretary may not enter into a contract for the purchase of entitlement commodities unless the Secretary considers the previous history and current patterns of the bidding party with respect to compliance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption.

Regulations.

(d) DUTIES OF STATE DISTRIBUTION AGENCIES.—Before the expiration of the 270-day period beginning on the date of the enactment of this Act, the Secretary shall by regulation require each State distribution agency to—

(1) evaluate its warehousing and distribution systems for donated commodities;

(2) implement the most cost-effective and efficient system for providing warehousing and distribution services to recipient agencies;

(3) use commercial facilities for providing warehousing and distribution services to recipient agencies unless the State applies to the Secretary for approval to use other facilities, showing that other facilities are more cost effective and efficient;

(4) consider the preparation and storage capabilities of recipient agencies when ordering donated commodities, including capabilities of such agencies to handle commodity product forms, quality, packaging, and quantities; and

Contracts.

(5) in the case of any such agency that enters into a contract with respect to processing of agricultural commodities and their products for recipient agencies—

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(A) test the product of such processing with the recipient agencies before entering into a contract for such processing; and

(B) develop a system for monitoring product acceptability.

State and local governments.

(e) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall provide by regulation for—

(A) whenever fees are charged to local recipient agencies, the establishment of mandatory criteria for such fees based on national standards and industry charges (taking into account regional differences in such charges) to be used by State distribution agencies for storage and deliveries of commodities;

(B) minimum performance standards to be followed by State agencies responsible for intrastate distribution of donated commodities and products;

(C) procedures for allocating donated commodities among the States; and

(D) delivery schedules for the distribution of commodities and products that are consistent with the needs of eligible recipient agencies, taking into account the duty of the Secretary—

(i) to remove surplus stocks of agricultural commodities through the Commodity Credit Corporation;

(ii) to purchase surplus agricultural commodities through section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c); and

(iii) to make direct purchases of agricultural commodities and other foods for distribution to recipient agencies under—

(I) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(II) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)); and

(III) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

(IV) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(V) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a).

(2) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary shall promulgate—

(A) regulations as required by paragraph (1)(D) before the end of the 90-day period beginning on the date of enactment of this Act; and

(B) regulations as required by subparagraphs (A), (B), and (C) of paragraph (1) before the end of the 270-day period beginning on such date.

(f) REVIEW OF PROVISION OF COMMODITIES.— 101 STAT. 1738

(1) IN GENERAL.—Before the expiration of the 270-day period beginning on the date of the enactment of this Act, the Secretary shall establish procedures to provide for systematic review of the costs and benefits of providing commodities of the kind and quantity that are suitable to the needs of recipient agencies.

(2) INFORMATION FROM RECIPIENT AGENCIES.—Before the expiration of the 120-day period beginning on the date of the enactment of this Act, the Secretary shall establish procedures to ensure that information is received from recipient agencies at least semiannually with respect to the types and forms of commodities that are most useful to persons participating in programs operated by recipient agencies.

(g) TESTING FOR ACCEPTABILITY.—The Secretary shall establish an ongoing field testing program for present and anticipated commodity and product purchases to test product acceptability with program participants. Test results shall be taken into consideration in deciding which commodities and products, and in what form the commodities and products, should be provided to recipient agencies.

(h) BUY AMERICAN PROVISION.—

(1) IN GENERAL.—The Secretary shall require that recipient agencies purchase, whenever possible, only food products that are produced in the United States.

(2) WAIVER.—The Secretary may waive the requirement established in paragraph (1)—

(A) in the case of recipient agencies that have unusual or ethnic preferences in food products; or

(B) for such other circumstances as the Secretary considers appropriate.

(3) EXCEPTION.—The requirement established in paragraph (1) shall not apply to recipient agencies in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands.

(i) UNIFORM INTERPRETATION.—The Secretary shall take such actions as are necessary to ensure that regional offices of the Department of Agriculture interpret uniformly across the United States policies and regulations issued to implement this section.

(j) PER MEAL VALUE OF DONATED FOODS.—Section 6(e) of the National School Lunch Act (42 U.S.C. 1755(e)) is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) adding at the end the following new paragraph:

State and local governments. Children and youth.

"(2) Each State agency shall offer to each school food authority under its jurisdiction that participates in the school lunch program and receives commodities, agricultural commodities and their products, the per meal value of which is not less than the national average value of donated foods established under paragraph (1). Each such offer shall include the full range of such commodities and products that are available from the Secretary to the extent that quantities requested are sufficient to allow efficient delivery to and within the State.".

(k) REPORT.—Not later than January 1, 1989, the Secretary shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the implementation and operation of this section.

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SEC. 4. FOOD BANK DEMONSTRATION PROJECT.

State and local governments. Disadvantaged persons. 7 USC 612c note.

(a) DEMONSTRATION PROJECT.—The Secretary shall carry out no less than one demonstration project to provide and redistribute agricultural commodities and food products thereof as authorized under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c), to needy individuals and families through community food banks. The Secretary may use a State agency or any other food distribution system for such provision or redistribution of section 32 agricultural commodities and food products through community food banks under a demonstration project.

(b) RECORDKEEPING AND MONITORING.—Each food bank participating in the demonstration projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and food products provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the projects shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

(c) DETERMINATION OF QUANTITIES, VARIETIES, AND TYPES OF COMMODITIES.—The Secretary shall determine the quantities, varieties, and types of agricultural commodities and food products to be made available under this section.

(d) EFFECTIVE PERIOD.—This section shall be effective for the period beginning on the date of enactment of this Act and ending on December 31, 1990.

(e) PROGRESS REPORTS.—The Secretary shall submit annual progress reports to Congress beginning on July 1, 1988, and a final report on July 1, 1990, regarding each demonstration project carried out under this section. Such reports shall include analyses and evaluations of the provision and redistribution of agricultural commodities and food products under the demonstration projects. In addition, the Secretary shall include in the final report any recommendations regarding improvements in the provision and redistribution of agricultural commodities and food products to community food banks and the feasibility of expanding such method of

provisions and redistribution of agricultural commodities and food products to other community food banks.

SEC. 5. EXTENSION OF ELIGIBILITY OF CERTAIN SCHOOL DISTRICTS TO RECEIVE CASH OR COMMODITY LETTERS OF CREDIT ASSISTANCE FOR SCHOOL LUNCH PROGRAMS.

Children and youth.

Section 18 of the National School Lunch Act (42 U.S.C. 1769) is amended by adding at the end the following new subsection:

"(e)(1) Upon request to the Secretary, any school district that on January 1, 1987, was receiving all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program for the duration beginning July 1, 1987, and ending December 31, 1990.

"(2) Any school district that elects under paragraph (1) to receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive bonus commodities in the same manner as if such school district was receiving all entitlement commodities for its school lunch program.".

101 STAT. 1740

SEC. 6. EXTENSION OF NATIONAL DONATED COMMODITY PROCESSING PROGRAMS.

Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(a)(2)(A)) is amended by striking out "June 30, 1987," and inserting in lieu thereof "September 30, 1990,".

SEC. 7. ASSESSMENT AND REPORT TO CONGRESS.

7 USC 612c note.

(a) ASSESSMENT.—The Comptroller General of the United States shall monitor and assess the implementation by the Secretary of the provisions of this Act.

(b) REPORT.—Before the expiration of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report of the findings of the assessment conducted as required by subsection (a).

SEC. 8. FUNDS FOR NUTRITION SERVICES AND ADMINISTRATION.

Children and youth.
State and local governments.

(a) IN GENERAL.—Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) In addition to the amounts otherwise made available under paragraphs (1) and (2), each State agency may convert funds initially allocated to the State agency for program food purchases to nutrition services and administration funds for the cost of the State agency and local agencies associated with increases in the number of persons served, if the State agency has implemented a competitive bidding, rebate, direct distribution, or home delivery system as described in its approved Plan of Operation and Administration.

"(B) The Secretary shall—

"(i) project each such State agency's level of participation for the fiscal year, excluding anticipated increases due to use during the fiscal year of any of the cost-saving strategies identified in subparagraph (A) of this paragraph; and

"(ii) compute, with an adjustment for the anticipated effects of inflation, each such State agency's average administrative grant per participant for the preceding fiscal year.

"(C) Each such State agency may convert funds at a rate equal to the amount established by the Secretary under subparagraph (B)(ii) of this paragraph for each food package distributed to each additional participant above the participation level projected by the Secretary under subparagraph (B)(i) of this paragraph, up to the

level of increased participation estimated in its approved Plan of Operation and Administration.".

(b) STATE PLAN OR PLAN AMENDMENT.—Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by, in paragraph (1)(C)—

(1) striking out "and" at the end of clause (vii);

(2) redesignating clause (viii) as clause (ix); and

(3) adding the following new clause:

"(viii) if the State agency chooses to request the funds conversion authority established in clause (h)(5) of this section, an estimate of the increased participation which will result from its cost-saving initiative, including an explanation of how the estimate was developed; and".

101 STAT. 1741

State and local governments. Reports. 42 USC 1786 note.

(c) STUDY OF NUTRITION SERVICES AND ADMINISTRATION FUNDING.—The Secretary shall conduct a study of the appropriateness of the percentage of the annual appropriation for the program required by paragraph (h)(1) of this section to be made available for State and local agency costs for nutrition services and administration, and shall report the results of this study to the Congress not later than March 1, 1989. Such study shall include an analysis of the impact in future years on per participant administrative costs if a substantial number of States implement competitive bidding, rebate, direct distribution, or home delivery systems and shall examine the impact of the percentage provided for nutrition services and administration on the quality of such services.

(d) EFFECTIVE DATE.—The amendment made by subsections (a), (b), and (c) shall take effect October 1, 1987.

SEC. 9. COORDINATION OF WIC PROGRAM WITH MEDICAID COUNSELING.

Section 17(f)(1)(C)(iii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)(C)(iii)) is amended by striking out "and maternal and child health care programs" and inserting in lieu thereof "maternal and child health care, and medicaid programs".

State and local governments. 42 USC 1786 note.

SEC. 10. STUDY OF MEDICAID SAVINGS FOR NEWBORNS FROM WIC PROGRAM.

(a) STUDY.—The Secretary of Agriculture in consultation with the Secretary of Health and Human Services shall conduct a national study of savings in the amount of assistance provided to families with newborns under State plans for medical assistance approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and State indigent health care programs, during the first 60-day period after birth, as the result of the participation of mothers of newborns before birth in the special supplemental food program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(b) REPORT.—Not later than February 1, 1990, the Secretary shall submit to Congress a report that describes the results of the study conducted under subsection (a).

(c) FUNDING.—This section shall be carried out using funds made available under section 17(g)(3) of the Child Nutrition Act of 1966.

SEC. 11. SUPPLYING INFANT FORMULA FOR THE WIC PROGRAM.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end thereof the following new paragraph:

"(16) To be eligible to participate in the program authorized by this section, a manufacturer of infant formula that supplies formula for the program shall—

"(A) register with the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.); and

State and local governments. Contracts.

"(B) before bidding for a State contract to supply infant formula for the program, certify with the State health department that the formula complies with such Act and regulations issued pursuant to such Act.".

SEC. 12. OVERSPENDING AND UNDERSPENDING UNDER THE WIC PROGRAM.

Section 17(i)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)(3)) is amended— 101 STAT. 1742

(1) in subparagraph (A)—

(A) by inserting "and subject to subparagraphs (B) and (C)" after "paragraph (2)"; and

(B) by striking out "or" at the end of clause (i) and inserting in lieu thereof "and"; and

(2) by adding at the end thereof the following new subparagraph:

"(C) The total amount of funds transferred from any fiscal year under clauses (i) and (ii) of subparagraph (A) shall not exceed 1 percent of the amount of the funds allocated to a State agency for such fiscal year.". State and local governments.

SEC. 13. DEFINITIONS. 7 USC 612c note.

For purposes of this Act:

(1) The term "donated commodities" means agricultural commodities and their products that are donated by the Secretary to recipient agencies.

(2) The term "entitlement commodities" means agricultural commodities and their products that are donated and charged by the Secretary against entitlements established under programs authorized by statute to receive such commodities.

(3) The term "recipient agency" means—

(A) a school, school food service authority, or other agency authorized under the National School Lunch Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) to operate breakfast programs, lunch programs, child care food programs, summer food service programs, or similar programs and to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase;

(B) a nutrition program for the elderly authorized under title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.) to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase;

(C) an agency or organization distributing commodities under the commodity supplemental food program established in section 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(D) any charitable institution, summer camp, or assistance agency for the food distribution program on Indian reservations authorized under section 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase; or

(E) an agency or organization distributing commodities under a program established in section 202 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note).

(4) The term "State distribution agency" means a State agency responsible for the intrastate distribution of donated commodities.

(5) The term "Secretary" means Secretary of Agriculture, unless the context specifies otherwise.

7 USC 612c note.

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SEC. 14. GENERAL EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

Approved January 8, 1988.

LEGISLATIVE HISTORY—H.R. 1340 (S. 305):

HOUSE REPORTS: No. 100-216, Pt. 1 (Comm. on Agriculture) and Pt. 2 (Comm. on Education and Labor).

SENATE REPORTS: No. 100-127 accompanying S. 305 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 133 (1987):

Aug. 3, considered and passed House.

Aug. 5, considered and passed Senate, amended, in lieu of S. 305.

Dec. 17, House concurred in Senate amendment with amendment.

Dec. 19, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Jan. 8, Presidential statement.

Public Law 100-40
100th Congress

101 STAT. 308

An Act

To provide for a temporary increase in the public debt limit.

May 15, 1987
[H.R. 2360]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) during the period beginning on the date of the enactment of this Act and ending on July 17, 1987, the public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be equal to $2,320,000,000,000.

31 USC 3101 note.

(b) Effective on and after the date of the enactment of this Act, section 8201 of the Omnibus Budget Reconciliation Act of 1986 is hereby repealed.

31 USC 3101 note.

Approved May 15, 1987.

LEGISLATIVE HISTORY—H.R. 2360:

HOUSE REPORTS: No. 100-88 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 133 (1987):
May 13, considered and passed House.
May 14, considered and passed Senate.

Public Law 100-80
100th Congress

101 STAT. 542

An Act

To provide for a temporary extension of the public debt limit.

July 30, 1987
[H.R. 3022]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of the first section of the Act of May 15, 1987, entitled "An Act to provide for a temporary increase in the public debt limit" (Public Law 100-40) is amended by striking out "July 17, 1987" and inserting in lieu thereof "August 6, 1987".

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(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Effective date.
31 USC 3101 note.

Approved July 30, 1987.

LEGISLATIVE HISTORY—H.R. 3022:

HOUSE REPORTS: No. 100-244 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 133 (1987):
July 29, considered and passed House and Senate.

101 STAT. 550 Public Law 100-84
100th Congress

An Act

Aug. 10, 1987
[H.R. 3190]

To provide for a temporary increase in the public debt limit.

31 USC 3101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That during the period beginning on the date of the enactment of this Act and ending on September 23, 1987, the public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be equal to $2,352,000,000,000.

Approved August 10, 1987.

LEGISLATIVE HISTORY—H.R. 3190:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Aug. 7, considered and passed House and Senate.

101 STAT. 754 Public Law 100-119
100th Congress

Joint Resolution

Sept. 29, 1987
[H.J. Res. 324]

Increasing the statutory limit on the public debt.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection, and inserting in lieu thereof "$2,800,000,000,000".

Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987.

TITLE I—DEFICIT REDUCTION PROCEDURES

SEC. 101. REFERENCES IN TITLE; SHORT TITLE.

(a) REFERENCES IN TITLE.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Balanced Budget and Emergency Deficit Control Act of 1985.

2 USC 901 note.

(b) SHORT TITLE.—This title may be cited as the "Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987".

SEC. 102. AUTOMATIC TRIGGER FOR FISCAL YEARS 1988 THROUGH 1993; OMB AND CBO REPORTS; PRESIDENTIAL ORDER; COMPUTATION OF BUDGET BASE; SEQUESTRATION RULES FOR FISCAL YEARS 1988 THROUGH 1993.

(a) IN GENERAL.—Sections 251 and 252 of the Act are amended to read as follows:

2 USC 901.

"SEC. 251. REPORTING OF EXCESS DEFICITS.

"(a) INITIAL ESTIMATES, DETERMINATIONS, AND REPORTS BY OMB AND CBO.—

"(1) ESTIMATES AND DETERMINATIONS.—The Director of the Office of Management and Budget and the Director of the Congressional Budget Office (in this part referred to as the 'Directors') shall with respect to each fiscal year and in

accordance with the requirements, specifications, definitions, and calculations required by this part—

"(A) estimate the budget levels of total revenues and outlays that may be anticipated for such fiscal year as of August 15 of the calendar year in which such fiscal year begins (or as of October 10, 1987, in the case of fiscal year 1988),

"(B) determine whether the projected deficit for such fiscal year will exceed the maximum deficit amount for such fiscal year and whether such deficit excess will be greater than $10,000,000,000 (zero in the case of fiscal year 1993),

"(C) estimate the amount of net deficit reduction in the budget baseline that has occurred since January 1 of the calendar year in which such fiscal year begins, and

"(D) estimate the rate of real economic growth that will occur during such fiscal year, the rate of real economic growth that will occur during each quarter of such fiscal year, and the rate of real economic growth that will have occurred during each of the last two quarters of the preceding fiscal year.

"(2) REPORTS.—(A) Based on the estimates and determinations required in paragraph (1) and in accordance with the requirements, specifications, definitions, and calculations required by this part, the Director of the Congressional Budget Office (in this part referred to as the 'Director of CBO') shall issue a report to the Director of the Office of Management and Budget (in this part referred to as the 'Director of OMB') and to the Congress on August 20 of the calendar year in which the fiscal year begins (or on October 15, 1987, in the case of fiscal year 1988) estimating the budget baseline levels of total revenues and total outlays for such fiscal year, identifying the amount of any deficit excess for such fiscal year, stating whether such excess is greater than $10,000,000,000 (zero in the case of fiscal year 1993), estimating the amount of net deficit reduction in the budget baseline that has occurred since January 1 of the calendar year in which such fiscal year begins, specifying the estimated rate of real economic growth for such fiscal year, for each quarter of such fiscal year, and for each of the last two quarters of the preceding fiscal year, indicating whether the estimate includes two or more consecutive quarters of negative real economic growth, estimating the aggregate amount of required outlay reductions, and specifying, by account for non-defense programs and by account for defense programs the budget baseline from which reductions are taken and the amounts and percentages by which such accounts must be reduced during such fiscal year in order to make the reductions required by this part.

"(B) The Director of OMB shall issue a report to the President and the Congress on August 25 of the calendar year in which the fiscal year begins (or on October 20, 1987, in the case of the fiscal year 1988) containing the same information required in subparagraph (A) and the information required in clauses (i) and (ii) for such fiscal year as follows:

"(i) The Director of OMB shall identify and explain any differences between the amount set forth in such report and the corresponding amount set forth in the report of the Director of CBO under subparagraph (A) with respect to—

"(I) the aggregate amount of required outlay reductions;

"(II) the aggregate amount of resources to be sequestered from defense accounts (by type of sequesterable resource) and from non-defense accounts (by type of sequesterable resource); and

"(III) the amount of sequesterable resources for any budget account that is to be reduced if such difference is greater than $5,000,000.

"(ii) The Director of OMB shall calculate and set forth for
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defense programs (by type of sequesterable resource) and for non-defense programs (by type of sequesterable resource), the amount of reductions in budgetary resources that would be required by this part using his estimate of the aggregate amount of required outlay reductions and applying the technical assumptions (including outlay rates) and methodologies used in the report of the Director of CBO under subparagraph (A). The Director of OMB shall identify and explain any differences between these estimates and such corresponding amounts set forth under clause (i).

"(iii) In the report for a fiscal year (except fiscal year 1988) issued under this subparagraph, the Director of OMB shall assume that the aggregate outlay rate for defense programs covered by paragraph (6)(C), calculated using data on sequesterable resources and account outlay rates applicable to such fiscal year, shall not differ by more than one-half of 1 percent from such aggregate outlay rate calculated using the same data on sequesterable resources but using account outlay rates calculated arithmetically using the applicable sequesterable resources and outlays contained in the report submitted under this Act for the preceding fiscal year as proposed by the Director of OMB. For purposes of this subparagraph, an aggregate outlay rate shall be the average of account outlay rates (expressed as a percentage) with each account outlay rate (as defined in section 257(13)) given a weight that is proportional to the account's share of total sequesterable resources. The calculation of the non-defense aggregate outlay rate for programs covered by paragraph (6)(C), shall be determined using the procedures and restrictions used for determining the aggregate defense outlay rate.

"(iv) The report issued under this subparagraph for any fiscal year (except fiscal year 1988) may not assume aggregate outlays for the health insurance programs under title XVIII of the Social Security Act (before taking into account legislation enacted or regulations prescribed after the current services budget is submitted) which deviate by more than 1 percent from the amount of outlays estimated for such programs in the current services budget submitted by the President pursuant to section 1109(a) of title 31, United States Code, for such fiscal year. For fiscal year 1988 the report issued under this subparagraph shall assume aggregate outlays for such programs (before taking into account legislation enacted or regulations promulgated as final after August 20, 1987) equal to the amount assumed for such programs by the Director of OMB in the report submitted to the Temporary Joint Committee on Deficit Reduction on August 20, 1987, except that, unless necessary to comply with requirements provided in law, any change in administrative procedures that increases or decreases the average number of days for the payment of claims under title XVIII of the Social Security Act, compared to such average in the preceding fiscal year, shall not be taken into account for purposes of this Act.

"(C)(i) The technical and economic assumptions used by the Director of CBO to calculate the excess deficit shall also be used
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by the Director of CBO to calculate the unachieved deficit reduction, required outlay reductions and the amounts and percentages by which budgetary resources must be reduced.

"(ii) The technical and economic assumptions used by the Director of OMB to calculate the excess deficit shall also be used

by the Director of OMB to calculate the required outlay reductions, the unachieved deficit reduction and the amounts and percentages by which budgetary resources must be reduced.

"(iii) For fiscal year 1988, except as specified in subparagraph (B)(iv), the Director of OMB shall use the same economic and technical assumptions (including outlay rates) that the Director of OMB used in the report submitted to the Temporary Joint Committee on Deficit Reduction on August 20, 1987.

"(iv) For fiscal year 1989 and subsequent fiscal years, to the extent that the report submitted by the President for such fiscal year under section 1106(a) of title 31, United States Code, uses economic and technical assumptions (including outlay rates) that differ from those that will be used by the Director of OMB in the report to be submitted under subparagraph (B) for such fiscal year, the report submitted by the President shall explain and identify such differences. Such report shall provide an estimate of the deficit excess and net deficit reduction in the budget baseline consistent with the estimates that will be used by the Director of OMB in the report to be submitted under subparagraph (B) for such fiscal year. The report submitted by the Director of OMB under subparagraph (B) for such fiscal year shall use the economic and technical assumptions that the report submitted by the President indicated would be used by such Director.

"(3) DETERMINATION OF REDUCTIONS.—

"(A) The aggregate amount of required outlay reductions for a fiscal year shall be determined as follows:

"(i) The aggregate required outlay reductions shall be—

"(I) for fiscal year 1988, the amount of unachieved deficit reduction;

"(II) for fiscal year 1989, zero if the deficit excess is equal to or less than $10,000,000,000, or if not, the lesser of the deficit excess or the amount of unachieved deficit reduction; or

"(III) for fiscal year 1990, 1991, 1992, or 1993, zero if the deficit excess for such fiscal year is equal to or less than the amount of the margin for such fiscal year specified in paragraph (10) of section 257, or if not, the amount of the deficit excess for such fiscal year.

The unachieved deficit reduction shall be $23,000,000,000 in the case of fiscal year 1988 and $36,000,000,000 in the case of fiscal year 1989, minus the net deficit reduction in the budget baseline for such fiscal year, but such unachieved deficit reduction shall not exceed $23,000,000,000 in the case of fiscal year 1988 or $36,000,000,000 in the case of fiscal year 1989. Net deficit reduction in the budget baseline for a fiscal year shall be the amount of the estimated deficit for such fiscal year based on laws enacted by, and regulations promulgated as final by, the snapshot date, as measured using the budget baseline specified in paragraph (6), subtracted from the amount of the estimated deficit for such fiscal year based on laws enacted by, and regulations promulgated as final by, January 1 of the calendar year in which such fiscal year begins as measured by using the budget baseline specified in paragraph (6). Both such deficit estimates for a fiscal year shall be made using the same economic and technical assumptions. 101 STAT. 758

"(ii) As used in this paragraph, the term 'snapshot date' means—

"(I) for fiscal year 1988, in the case of an initial report submitted under subsection (a), October 10, 1987, and in the case of a final report submitted

under subsection (c), the latest possible date before its submission;

"(II) for fiscal year 1989 and subsequent fiscal years, in the case of an initial report submitted under subsection (a), August 15, and in the case of a final report submitted under subsection (c), the latest possible date before its submission.

"(B) Subject to the exemptions, exceptions, limitations, special rules, and definitions set forth in this section and in sections 255, 256, and 257, one-half of the aggregate required outlay reductions shall be made under accounts within major functional category 050 (in this part referred to as outlays under 'defense programs'), and shall be made in accordance with the rules prescribed in subsection (d), and the other half of the aggregate required outlay reductions shall be made under other accounts of the Federal Government (in this part referred to as 'non-defense programs').

"(C) The amount by which outlays for automatic spending increases scheduled to take effect during the fiscal year are to be reduced shall be credited as reductions in outlays under non-defense programs, and the total amount of reductions in outlays under non-defense programs required under subparagraph (B) shall be reduced accordingly.

"(D) The maximum reduction permissible for each program to which an exception, limitation, or special rule set forth in subsection (c) or (f) of section 256 applies shall be credited as reductions in outlays under non-defense programs, and the amount of reductions in outlays under non-defense programs shall be further reduced by the amount of the reduction determined with respect to each such program.

Loans.

"(E)(i) Sequestrations and reductions under the remaining non-defense programs shall be applied on a uniform percentage basis so as to reduce new budget authority; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; obligation limitations; and spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974 to the extent necessary to achieve any remaining required outlay reductions; except that each of the programs to which the special rules set forth in subsections (d) and (k) of section 256 apply shall not be reduced by more than the percentages specified in such subsections and the uniform percentage reduction applicable to all other programs under this clause shall be increased (if necessary) to a level sufficient to achieve any remaining required outlay reductions.

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Contracts.

"(ii) For purposes of determining reductions under clause (i), any reduction in outlays of the Commodity Credit Corporation under an order issued by the President under section 252 for a fiscal year, with respect to contracts entered into during that fiscal year, that will occur during the succeeding fiscal year, shall be credited as reductions in outlays for the fiscal year in which the order is issued.

The determination of which accounts are within major functional category 050 and which are not, for purposes of subparagraph (B), shall be made by the Directors in a manner consistent with the budget submitted by the President for the fiscal year 1986; except that for such purposes no part of the accounts entitled 'Federal Emergency Management Agency, Salaries and expenses (58-0100-0-1-999)' and 'Federal Emergency Management Agency, Emergency management planning and assistance (58-0101-0-1-999)' shall be treated as being within functional category 050.

"(4) ADDITIONAL SPECIFICATIONS.—The reports submitted under paragraph (2) must also specify (with respect to the fiscal year involved)—

"(A) the amount and percentage increase of the automatic spending increase (if any) which is scheduled to take effect in the case of each program providing for such increases, and the amount and percentage increase (if any) of each such increase which will take effect after reduction under this part;

"(B) the amount of the savings (if any) to be achieved in the application of each of the special rules set forth in subsections (c) through (l) of section 256, along with a statement of (i) the new Federal matching rate resulting from the application of subsection (e) of that section, and (ii) the amount of the percentage reduction in payments to the States under section 204 of the Federal-State Extended Unemployment Compensation Act of 1970; and

"(C)(i) for defense programs, by account, the reduction (stated in terms of both percentage and amount) in new budget authority and unobligated balances, together with the estimated outlay reductions resulting therefrom; and

Defense and national security.

"(ii) for non-defense programs, by account, the reduction, stated in terms of both percentage and amount, in new budget authority; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; obligation limitations; and spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974; together with the estimated outlay reductions resulting therefrom.

Loans.

"(5) BASIS FOR DIRECTORS' ESTIMATES, DETERMINATIONS, AND SPECIFICATIONS.—The estimates, determinations, and specifications of the Directors under the preceding provisions of this subsection and under subsection (c) shall utilize the budget baseline, criteria, and guidelines set forth in paragraph (6) and in sections 255, 256, and 257. In estimating the deficit, the excess deficit, and unachieved deficit reduction for an initial report under paragraph (2) or a final report under subsection (c), the Directors shall use the budget baseline set forth in paragraph (6) based on laws enacted by, and regulations promulgated as final by, the snapshot date applicable to such report.

101 STAT. 760

"(6) BUDGET BASELINE.—In estimating the deficit excess and net deficit reduction in the budget baseline and in computing the amounts and percentages by which accounts must be reduced during a fiscal year as set forth in any report required under this subsection for such fiscal year, the budget baseline shall be determined by—

"(A) assuming (subject to subparagraph (B)) the continuation of current revenue law and, in the case of spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974, funding for current law at levels sufficient to fully make all payments required under such law;

"(B) assuming that expiring provisions of law providing revenues and spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974 do expire, except that excise taxes dedicated to a trust fund, and agricultural price support programs administered through the Commodity Credit Corporation are extended at current rates, and contract authority for transportation trust funds is extended at current levels;

Taxes.

"(C) in the case of all accounts to which subparagraph (A) does not apply—

"(i) assuming for an account (except as provided by clause (ii)), appropriations at the level specified in enacted annual appropriations or continuing appropriations enacted for the entire fiscal year, and in addition,

estimates of appropriations to cover the costs of Federal pay adjustments as set forth in subparagraph (D)(ii) (unless funding for such pay adjustments are provided for in such measure as explained in the joint explanatory statement of managers accompanying such appropriations);

"(ii) assuming, if no annual appropriations or continuing appropriations for the entire fiscal year have been enacted for an account, subject to subparagraph (D)(iii), appropriations at the level provided for the previous fiscal year, (I) adjusted to reflect the full 12-month costs (without absorption) of the pay adjustment that occurred in such fiscal year, (II) inflated as specified in subparagraph (D)(i), and (III) increased to cover the increased costs to agencies of personnel benefits (other than pay) required by law;

Government organization and employees.
Wages.

"(D)(i) as required by subparagraph (C)(ii)(II), assuming that the inflator shall equal—

"(I) in the case of fiscal year 1988—

"(aa) for personnel costs, the rate of Federal pay adjustments for statutory pay systems and elements of military pay if such adjustments have been enacted into law or (on or after October 1 of the fiscal year) have been established pursuant to law for such fiscal year or, if not, 4.2 percent, multiplied by the proportion of the fiscal year for which the pay adjustments will be effective, multiplied by 78 percent; and

"(bb) for all other costs, 4.2 percent;

101 STAT. 761

"(II) in the case of fiscal year 1989 and subsequent fiscal years—

"(aa) for 70 percent of personnel costs, the rate of Federal pay adjustments for statutory pay systems and elements of military pay if such adjustments have been enacted into law or (on or after October 1 of the fiscal year) have been established pursuant to law for such fiscal year or, if not, at the inflation rate specified in subclause (II)(bb), multiplied by the proportion of the fiscal year for which the pay adjustments will be effective, multiplied by 78 percent; and

"(bb) for all other costs, the percentage by which the average of the estimated gross national product implicit price deflator for such fiscal year exceeds the average of such estimated deflator for the prior fiscal year (and the Director of OMB shall use such percentage as estimated in the budget submitted by the President under section 1105(a) for such fiscal year, but such use shall not constrain the economic assumptions the Director may use under paragraph (2)(C));

"(ii) if required by subparagraph (C)(i), assuming appropriations for a fiscal year in an amount sufficient to—

"(I) cover any Federal pay adjustment for statutory pay systems (including associated adjustments in benefit costs) if such adjustments have been enacted into law or, on or after October 1 of the fiscal year, have been established pursuant to law for such fiscal year;

"(II) cover any pay adjustments for elements of military pay (including associated adjustments in benefit costs) if such adjustments are specifically enacted into law or occur pursuant to adjustments for statutory pay systems if such adjustments have been enacted into law or, on or after October 1 of the fiscal year, have been established pursuant to law;

reduced by 22 percent;

"(iii) assuming for the purposes of subparagraph (C)(ii) that the amount provided for an account for the previous fiscal year is the amount provided in any enacted annual appropriations or continuing appropriations enacted for the entire fiscal year, as modified by any enacted supplemental appropriations or rescission bills, and if a temporary continuing appropriation is in effect for the previous fiscal year, then the amount provided for such account for the previous fiscal year shall be assumed to be the amount that would have been enacted if such continuing appropriations were in effect for the entire fiscal year;

Medicare.

"(E) assuming that medicare spending levels for inpatient hospital services will be based upon the regulations most recently issued in final form or proposed by the Health Care Financing Administration pursuant to sections 1886(b)(3)(B), 1886(d)(3)(A), and 1886(e)(4) of the Social Security Act;

Real property.

"(F) assuming that, unless otherwise required by law, advance deficiency payments and paid land diversion payments under the Agricultural Act of 1949 will be made in accordance with applicable regulations and payment rates for 1987;

101 STAT. 762

"(G) assuming that the increase in revenues attributable to any increase in appropriations available for administration and enforcement of the Internal Revenue Code of 1986 (over the amount actually appropriated for the previous fiscal year) is consistent on a proportional basis with the increase in revenues projected to result from the increased appropriations for such purposes in the budget submitted under section 1105(a) of title 31, United States Code, for such fiscal year;

Veterans.

"(H) assuming, unless otherwise provided by law, that the increase for Veterans' compensaton (36-0153-0-1-701) for a fiscal year will be the same as that required by law for Veterans' pensions;

Loans.

"(I) assuming, for purposes of this paragraph and subparagraph (A)(i) of paragraph (3), that the sale of an asset or prepayment of a loan shall not alter the deficit or produce any net deficit reduction in the budget baseline, except that the budget baseline estimate shall include asset sales mandated by law before September 18, 1987, and routine, ongoing asset sales and loan prepayments at levels consistent with agency operations in fiscal year 1986;

"(J) assuming that deferrals proposed during the period beginning October 1 of such fiscal year and ending with the snapshot date for such fiscal year shall not be taken into account in determining such budget baseline; and

"(K) assuming that the transfer of Government actions from one fiscal year to another fiscal year, as described in section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, shall not be taken into account except to the extent provided in such section.

Terms used in this paragraph shall have the meanings defined in sections 256 and 257.

Federal Register, publication.

"(b) DATES FOR SUBMISSION AND PRINTING OF REPORTS.—Each report submitted under this section shall be submitted to the Federal Register on the day that it is issued and printed on the following day. If the date specified for the submission of a report by the Directors or its printing in the Federal Register under this section falls on a Sunday or legal holiday, such report shall be submitted or printed on the following day.

"(c) REVISED ESTIMATES, DETERMINATIONS, AND REPORTS.—

"(1) REPORTS BY CBO.—On November 15 of fiscal year 1988 and on October 10 of subsequent fiscal years, the Director of CBO shall issue a revised report to Congress and the Director of OMB—

"(A) indicating whether and to what extent, as a result of laws enacted and regulations promulgated as final after August 15 of the calendar year in which the fiscal year begins (or after October 10, 1987, in the case of the fiscal year 1988) the aggregate amount of required outlay reductions identified in the report submitted under subsection (a)(2)(A) has been eliminated, reduced, or increased,

"(B) adjusting the determinations made under subsection (a)(2)(A) to the extent necessary, and

"(C) specifying by programs, projects, and activities for defense accounts, the budget baseline from which reductions are taken and the amounts and percentages by which such programs, projects, and activities must be reduced.

101 STAT. 763

"(2) REPORTS BY OMB.—On November 20 of fiscal year 1988 and on October 15 of subsequent fiscal years, the Director of OMB shall submit to the President and the Congress a report revising the report issued under subsection (a)(2)(B), adjusting the estimates, determinations, and specifications contained in the report and taking into account for the purposes of required determinations and comparisons the revised report issued by the Director of CBO under paragraph (1). This report shall contain all of the determinations and comparisons required in, and shall be based on the same economic and technical assumptions, employ the same methodologies, and utilize the same definition of the budget baseline and the same criteria and guidelines as, the report issued under subsection (a)(2)(B), and shall provide for the determination of reductions in the manner specified in subsection (a)(3). In addition, this report shall specify by programs, projects, and activities for defense accounts, the budget baseline from which reductions are taken and the amounts by which such programs, projects, and activities must be reduced.

"(d) SEQUESTRATION OF DEFENSE PROGRAMS.—

"(1) DETERMINATION OF UNIFORM PERCENTAGE.—The total amount of reductions in outlays under defense programs required for a fiscal year under subsection (a)(3)(B) shall be calculated as a percentage of the total amount of outlays for the fiscal year estimated to result from new budget authority and unobligated balances for defense programs.

"(2) SEQUESTRATION OF NEW BUDGET AUTHORITY AND UNOBLIGATED BALANCES.—

"(A) Sequestration to achieve the required reduction in outlays under defense programs shall be made by reducing new budget authority and unobligated balances (if any) in each program, project, or activity under accounts within defense programs by the percentage determined under paragraph (1), computed on the basis of the combined outlay rate for new budget authority and unobligated balances for such program, project, or activity determined under subparagraph (B).

"(B) If the outlay rate for unobligated balances is not available for any program, project, or activity, the outlay rate used shall be the outlay rate for new budget authority.

"(3) FLEXIBILITY WITH RESPECT TO MILITARY PERSONNEL ACCOUNTS.—

"(A) Notwithstanding paragraphs (1) and (2), with respect to a fiscal year the President may, with respect to any military personnel account—

"(i) exempt any program, project, or activity within such account from the order;

"(ii) provide for a lower uniform percentage to be applied to reduce any program, project, or activity within such account than would otherwise apply; or

"(iii) take actions described in both clauses (i) and (ii).

"(B) If the President uses the authority under subpara-

graph (A), the total amount by which outlays are not reduced for such fiscal year in military personnel accounts by reason of the use of such authority shall be determined. 101 STAT. 764
Additional reductions in outlays under defense programs in such total amount shall be achieved by a uniform percentage sequestration of new budget authority and unobligated balances in each program, project, and activity within each account within major functional category 050 other than those military personnel accounts for which the authority provided under subparagraph (A) has been exercised, computed on the basis of the outlay rate for each such program, project, and activity determined under paragraphs (1) and (2).

"(C) The President may not use the authority provided by subparagraph (A) unless he notifies the Congress on or before October 10, 1987, in the case of fiscal year 1988, or August 15 of the calendar year in which the fiscal year begins in the case of any subsequent fiscal year, of the manner in which such authority will be exercised. The Directors shall reflect the results of authority exercised under this paragraph in the reports required under section 251(a)(2).

"(e) EXCEPTION.—The preceding provisions of this section shall not apply if a declaration of war by the Congress is in effect.

"SEC. 252. PRESIDENTIAL ORDER. 2 USC 902.

"(a) ISSUANCE OF INITIAL ORDER.—

"(1) IN GENERAL.—On August 25 (or October 20, 1987, in the case of fiscal year 1988), following the submission of a report by the Director of OMB under section 251(a)(2)(B), the President, in strict accordance with the requirements of paragraph (2) and section 251(a) (3) and (4) and subject to the exemptions, exceptions, limitations, special rules, and definitions set forth in sections 255, 256, and 257, shall make all the reductions specified in such report by issuing an order that (notwithstanding the Impoundment Control Act of 1974)—

"(A) in accordance with such report, suspends the operation of each provision of Federal law that would (but for such order) require an automatic spending increase to take effect during such fiscal year in such a manner as to prevent such increase from taking effect, or reduce such increase, in accordance with such report; and

"(B) in accordance with such report, sequesters new budget authority; unobligated balances; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974; and obligation limitations— Loans.

"(i) for funds provided in annual appropriation Acts, from each affected program, project, and activity (as set forth in the most recently enacted applicable appropriation Acts and accompanying committee reports for the program, project, or activity involved, including joint resolutions providing continuing appropriations and committee reports accompanying Acts referred to in such resolutions), applying the same reduction percentage as the percentage by which the account involved is reduced in the report submitted under section 251(a)(2)(B) or from each affected budget account if the program, project, or activity is not so set forth, and 101 STAT. 765

"(ii) for funds not provided in annual appropriation Acts, from each budget account activity as identified in the program and financing schedules contained in the appendix to the Budget of the United States Government for that fiscal year, applying the same reduction

percentage as the percentage by which the account is reduced in such report.

"(2) ORDER TO BE BASED ON DIRECTOR OF OMB'S REPORT.—The order must provide for reductions in the manner specified in section 251(a)(3), must incorporate the provisions of the report submitted under section 251(a)(2)(B), and must be consistent with such report in all respects. The President may not modify or recalculate any of the estimates, determinations, specifications, bases, amounts, or percentages set forth in such report in determining the reductions to be specified in the order with respect to programs, projects, and activities, or with respect to budget activities, within an account.

"(3) ORDER REQUIRED IF NO REDUCTIONS ARE NEEDED.—If the report submitted under section 251(a)(2)(B) states that no aggregate outlay reductions are required for a fiscal year, the order issued by the President shall so state.

"(4) EFFECT OF SEQUESTRATION UNDER INITIAL ORDER.—

"(A) IN GENERAL.—Notwithstanding section 257(7), amounts sequestered under an order issued by the President under paragraph (1) shall be withheld from obligation or expenditure pending the issuance of a final order under subsection (b) and shall be permanently sequestered or reduced in accordance with such final order upon the issuance of such order.

"(B) SPECIAL RULE CONCERNING REDUCTION OF PAYMENTS UNDER THE MEDICARE PROGRAM.—

"(i) IN GENERAL.—With respect to services furnished during the interim period (as defined in clause (iii)) for any fiscal year, and notwithstanding any other provision of this Act, payments under the health insurance programs under title XVIII of the Social Security Act shall not be reduced by an initial order under this subsection for that fiscal year.

"(ii) DIRECTOR OF OMB TO DETERMINE ANNUALIZED PERCENTAGE REDUCTION.—The Director of OMB, in consultation with the Secretary of Health and Human Services, shall determine a percentage reduction which shall apply to payments under the health insurance programs under title XVIII of the Social Security Act for services furnished in any fiscal year after the interim period for that year, such that the reduction made in such payments under the final order under subsection (b) for that year shall achieve a total reduction of 2 percent (or, if lower, the uniform percentage reduction provided under section 251(a)(3)(E)(i)) in such payments for such fiscal year as determined on a 12-month basis.

"(iii) INTERIM PERIOD.—In this subparagraph, the term 'interim period' means, with respect to a fiscal year, the period beginning on October 1 of the fiscal year and ending on the date of the issuance of the final order under subsection (b) with respect to that fiscal year.

101 STAT. 766

"(5) ACCOMPANYING MESSAGE.—Not later than the 15th day beginning after the President issues an initial order under paragraph (1) for any fiscal year, the President shall transmit to both Houses of Congress a single message containing all the information required by section 251(a)(4) and further specifying in strict accordance with paragraph (2)—

"(A) within each account, for each program, project, and activity, or budget account activity, the base from which each sequestration or reduction is taken and the amounts which are to be sequestered or reduced for each such program, project, and activity or budget account activity; and

"(B) such other supporting details as the President may determine to be appropriate.

Upon receipt in the Senate and the House of Representatives, the message (and any accompanying proposals made under subsection (c)(1)) shall be referred to all committees with jurisdiction over programs, projects, and activities affected by the order. Congress.

"(6) EFFECTIVE DATE OF INITIAL ORDER.—

"(A) FISCAL YEAR 1988.—The order issued by the President under paragraph (1) with respect to fiscal year 1988 shall be effective as of the day it is issued (and the President shall withhold from obligation or expenditure as provided in paragraph (4), pending the issuance of the final order under subsection (b), any amounts that are sequestered under such order).

"(B) FISCAL YEARS 1989–1993.—The order issued by the President under paragraph (1) with respect to the fiscal year 1989 or any subsequent fiscal year shall be effective as of October 1 of such fiscal year (and the President shall withhold from obligation or expenditure as provided in paragraph (4), pending the issuance of the final order under subsection (b), any amounts that are sequestered under such order).

"(7) TREATMENT OF AUTOMATIC SPENDING INCREASES.—

"(A) FISCAL YEARS 1987–1993.—Notwithstanding any other provision of law, any automatic spending increase that would (but for this clause) be first paid during the period beginning with the first day of such fiscal year and ending with the date on which a final order is issued pursuant to subsection (b) shall be suspended until such final order becomes effective, and the amounts that would otherwise be expended during such period with respect to such increases shall be withheld. If such final order provides that automatic spending increases shall be reduced to zero during such fiscal year, the increases suspended pursuant to the preceding sentence and any legal rights thereto shall be permanently cancelled. If such final order provides for the payment of the full amount of such increases, the increases suspended pursuant to such sentence shall be restored to the extent necessary to pay such reduced or full increases, and lump-sum payments in the amounts necessary to pay such reduced or full increases shall be made, for the period for which such increases were suspended pursuant to this clause. 101 STAT. 767

"(B) PROHIBITION AGAINST RECOUPMENT.—Notwithstanding subparagraph (A), if an amount required to be withheld is paid, no recoupment shall be made against an individual to whom payment was made.

"(C) EFFECT OF LUMP-SUM PAYMENTS ON NEEDS-RELATED PROGRAMS.—Lump-sum payments made under the last sentence of subparagraph (A) shall not be considered as income or resources or otherwise taken into account in determining the eligibility of any individual for aid, assistance, or benefits under any Federal or federally assisted program which conditions such eligibility to any extent upon the income or resources of such individual or his or her family or household, or in determining the amount or duration of such aid, assistance, or benefits.

"(b) ISSUANCE OF FINAL ORDER.—

"(1) IN GENERAL.—On October 15 of the fiscal year (or on November 20, 1987, in the case of fiscal year 1988), after the submission of the revised report by the Director of OMB under section 251(c)(2), the President shall issue a final order under this section to make all of the reductions and sequestrations specified in such report, but only to the extent and in the manner provided in such report. The order issued under this subsection—

"(A) shall include the same reductions and sequestrations

as the initial order issued under subsection (a), adjusted to the extent necessary to take account of any changes in relevant amounts or percentages determined by the Director of OMB in the revised report submitted under section 251(c)(2), and shall include a reduction in payments under the health care programs under title XVIII of the Social Security Act determined in accordance with subsection (a)(4)(B)(ii),

"(B) shall make such reductions and sequestrations in strict accordance with the requirements of sections 251(a) (3) and (4), and

"(C) shall utilize the same criteria and guidelines as those which were used in the issuance of such initial order under subsection (a).

The provisions of section 251(a)(3) shall apply to the revised report submitted under section 251(c)(2) and to the order issued under this subsection in the same manner as such provisions apply to the initial report issued under section 251(a)(2)(B) and to the order issued under subsection (a).

"(2) ORDER REQUIRED IF DEFICIT REDUCTION IS ACHIEVED.—If the Director of OMB issues a revised report under section 251(c)(2) stating that as a result of laws enacted and regulations promulgated as final after August 15 of the calendar year in which such fiscal year begins (or October 10, 1987, in the case of fiscal year 1988) no deficit reduction is necessary to fully satisfy the requirements of section 251(a)(3)(A), the order issued under this subsection shall so state and shall make available for obligation and expenditure any amounts withheld pursuant to subsection (a)(4) or (a)(7).

"(3) EFFECTIVE DATE OF FINAL ORDER.—

"(A) The final order issued by the President under paragraph (1) shall become effective on the date of its issuance, and shall supersede the initial order issued under subsection (a)(1).

101 STAT. 768

"(B) Any modification or suspension by such order of the operation of a provision of law that would (but for such order) require an automatic spending increase to take effect during the fiscal year shall apply for the one-year period beginning with the date on which such automatic increase would have taken effect during such fiscal year (but for such order).

"(4) ACCOMPANYING MESSAGE.—Not later than the 15th day beginning after the President issues a final order under paragraph (1) for any fiscal year, the President shall transmit to both Houses of Congress a single message in the same manner as, and containing all the information required by, subsection (a)(5).

"(c) PROPOSAL OF ALTERNATIVES BY THE PRESIDENT.—

"(1) IN GENERAL.—A message transmitted pursuant to subsection (a)(5) with respect to a fiscal year may be accompanied by a proposal setting forth in full detail alternative ways to reduce the deficit for such fiscal year in an amount not less than the deficit reduction required under section 251(a)(3) for such fiscal year.

"(2) FLEXIBILITY AMONG DEFENSE PROGRAMS, PROJECTS, AND ACTIVITIES.—

"(A) Subject to subparagraphs (B), (C), and (D), and subsection (d), new budget authority and unobligated balances for any programs, projects, or activities within major functional category 050 (other than a military personnel account) may be further reduced beyond the amount specified in an order issued by the President under subsection (b)(1) for such fiscal year. To the extent such additional reductions are made and result in additional outlay reductions, the President may provide for lesser reductions in

new budget authority and unobligated balances for other programs, projects, or activities within major functional category 050 for such fiscal year, but only to the extent that the resulting outlay increases do not exceed the additional outlay reductions, and no such program, project, or activity may be increased above the level actually made available by law in appropriation Acts (before taking sequestration into account). In making calculations under this subparagraph, the President shall use account outlay rates that are identical to those used in the report by the Director of OMB under section 251(c)(2).

"(B) No actions taken by the President under subparagraph (A) for a fiscal year may result in a domestic base closure or realignment that would otherwise be subject to section 2687 of title 10, United States Code.

"(C) The President may not exercise the authority provided by this paragraph for a fiscal year unless—

Reports.

"(i) the President submits a single report to Congress specifying changes proposed to be made for such fiscal year pursuant to this paragraph; and

"(ii) a joint resolution affirming or modifying the changes proposed by the President pursuant to this paragraph becomes law.

101 STAT. 769

Congress.

"(D) Within 5 calendar days of session after the President submits a report to Congress under subparagraph (C)(i) for a fiscal year, but before November 25, 1987, for fiscal year 1988 or, in the case of any subsequent fiscal year, before October 20 of such fiscal year, the majority leader of each House of Congress shall (by request) introduce a joint resolution which contains provisions affirming the changes proposed by the President pursuant to this paragraph.

"(E)(i) The matter after the resolving clause in any joint resolution introduced pursuant to subparagraph (D) shall be as follows: 'That the report of the President as submitted on [Insert Date] under section 252(c)(2)(C)(i) is hereby approved.'.

"(ii) The title of the joint resolution shall be 'Joint resolution approving the report of the President submitted under section 252(c)(2)(C)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.'.

"(iii) Such joint resolution shall not contain any preamble.

"(F)(i) A joint resolution introduced in the House of Representatives under subparagraph (D) shall be referred to the Committee on Appropriations, and if not reported within 5 calendar days (excluding Saturdays, Sundays, and legal holidays) from the date of introduction shall be considered as having been discharged therefrom and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection.

"(ii) A joint resolution introduced in the Senate under subparagraph (D) shall be referred to the Committee on Appropriations, and if not reported within 5 calendar days (excluding Saturdays, Sundays, and legal holidays) from the date of introduction shall be considered as having been discharged therefrom and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection. In the Senate, no amendment made in the Committee on Appropriations shall be in order other than an amendment (in the nature of a substitute) that is germane or relevant to the provisions of the joint resolution or to the order issued under section 252(b)(1) insofar as they relate to major function 050 (national defense).

"(iii) On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint

resolution is placed on the appropriate calendar, notwithstanding any rule or precedent of the Senate, including Rule 22 of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived, except for points of order under titles III and IV of the Congressional Budget Act of 1974. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after such joint resolution is placed on the appropriate calendar. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the respective House until disposed of.

101 STAT. 770

"(G)(i) In the Senate, debate on a joint resolution introduced under subparagraph (D), amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees). In the House, general debate on a joint resolution introduced under subparagraph (D) shall be limited to not more than 4 hours which shall be equally divided between the chairman of the Committee on Appropriations and the ranking minority member of such committee.

"(ii) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order. In the Senate, a motion to recommit the joint resolution is not in order. In the House, a motion further to limit debate is in order and not debatable. In the House, a motion to recommit, with or without instructions, is in order.

"(H)(i) In the House of Representatives, an amendment and any amendment to an amendment is debatable for not to exceed 30 minutes to be equally divided between the proponent of the amendment and a Member opposed thereto.

"(ii) No amendment that is not germane or relevant to the provisions of the joint resolution or to the order issued under section 252(b)(1) insofar as they relate to major function 050 (national defense) shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between the majority leader and the minority leader (or their designees).

"(iii) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

"(iv) It shall not be in order in the Senate to consider any amendment to any joint resolution introduced under subparagraph (D) or any conference report thereon if such amendment or conference report would have the effect of decreasing any specific budget outlay reductions below the 101 STAT. 771
level of such outlay reductions provided in such joint resolution unless such amendment or conference report makes a reduction in other specific budget outlays at least equivalent to any increase in outlays provided by such amendment or conference report.

"(v) For purposes of the application of clause (iv), the level of outlays and specific budget outlay reductions provided in an amendment shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

"(I) Immediately following the conclusion of the debate on a joint resolution introduced under subparagraph (D), a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, and the disposition of any amendments under subparagraph (H) (except in the House of Representatives for the motion to recommit and the disposition of any amendment proposed in a motion to recommit which has been adopted), the vote on final passage of the joint resolution shall occur.

"(J) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution described in subparagraph (D) shall be decided without debate.

"(K) In the Senate, points of order under titles III and IV of the Congressional Budget Act of 1974 (including points of order under sections 302(c), 303(a), 306, and 401(b)(1)) are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

"(L) If, before the passage by the Senate of a joint resolution of the Senate introduced under subparagraph (D), the Senate receives from the House of Representatives a joint resolution introduced under subparagraph (D), then the following procedures shall apply:

"(i) The joint resolution of the House of Representatives shall not be referred to a committee.

"(ii) With respect to a joint resolution introduced under subparagraph (D) in the Senate—

"(I) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

"(II)(aa) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

"(bb) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes it, the Senate shall be considered to have passed the joint resolution as amended by the text of the Senate joint resolution.

"(iii) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the joint resolution originated in the Senate.

"(M) If the Senate receives from the House of Representatives a joint resolution introduced under subparagraph (D) 101 STAT. 772
after the Senate has disposed of a Senate originated joint resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be

deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.

"(d) EXISTING PROGRAMS, PROJECTS, AND ACTIVITIES NOT TO BE ELIMINATED.—No action taken by the President under subsection (a) or (b) of this section shall have the effect of eliminating any program, project, or activity of the Federal Government.

"(e) RELATIVE BUDGET PRIORITIES NOT TO BE ALTERED.—Nothing in the preceding provisions of this section shall be construed to give the President new authority to alter the relative priorities in the Federal budget that are established by law, and no person who is or becomes eligible for benefits under any provision of law shall be denied eligibility by reason of any order issued under this part.

"(f) PART-YEAR APPROPRIATIONS.—

"(1) EFFECT OF FINAL ORDER ON PART-YEAR APPROPRIATION.—If, at the time the President issues a final order for any fiscal year, there is in effect an Act making or continuing appropriations for part of the fiscal year for any budget account which is subject to reduction under the order, then the amount sequestered upon issuance of the order for that account shall be equal to the reduction amount for such account required by the final order multiplied by a fraction the numerator of which is the number of days during the fiscal year with respect to which the Act applies and the denominator of which is 365.

"(2) EFFECT OF SUBSEQUENT APPROPRIATION ON FINAL ORDER.—

"(A) If, after the issuance of a final order for a fiscal year under subsection (b), an Act referred to in paragraph (1) is extended or an Act making or continuing appropriations for part of the fiscal year for the account is enacted, then additional amounts determined in the same manner shall be sequestered.

"(B) Upon enactment of a full-year appropriation (including a continuing appropriation for the full year) for the account, the full amount of the sequestration specified by the final order, reduced by the sum of amounts previously sequestered and savings achieved by such appropriation measure when the amount enacted is less than the budget baseline for such account, shall be sequestered, except that the sum shall not exceed the amount specified in the final order for the account.

"(3) EFFECTIVE DATE OF SEQUESTRATIONS.—Amounts required to be sequestered by the President under paragraph (1) or (2) shall be sequestered not later than the close of the fifth calendar day beginning after the date of enactment into law of the relevant Act referred to in paragraph (1) or (2).

Federal Register, publication.

"(g) PRINTING OF ORDERS.—Each initial order and final order issued under this section shall be submitted to the Federal Register on the date it is issued and printed on the following day. If the date specified for the issuance of an order or its printing in the Federal Register under this section falls on a Sunday or legal holiday, such order shall be issued or printed on the following day."

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(b) CONFORMING AMENDMENTS.—

2 USC 904.

(1) CONGRESSIONAL PROCEDURES.—Section 254(b)(1)(A) of the Act is amended by striking out "the Comptroller General under section 251(c)(2)" and by inserting in lieu thereof "the Director of OMB under section 251(c)(2)".

2 USC 906.

(2) SEQUESTRATIONS.—Section 256(a)(2) of the Act is amended to read as follows:

Loans.

"(2) SEQUESTRATIONS.—Any amounts of new budget authority; unobligated balances; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974; or obligation limitations

which are sequestered or automatic spending increases which are reduced under an order issued under section 252 are permanently cancelled or reduced; with the exception of amounts sequestered or reduced in special or trust funds, which shall remain in such funds and be available in accordance with and to the extent permitted by law, including the provisions of this Act.".

(3) TREATMENT OF OBLIGATED BALANCES.—Section 256(l) of the Act is amended to read as follows:

"(l) TREATMENT OF OBLIGATED BALANCES.—Obligated balances shall not be subject to reduction under an order issued under section 252.".

(4) DEFINITION OF SEQUESTRATION.—Section 257(7) of the Act is amended to read as follows: 2 USC 907.

"(7) The terms 'sequester' and 'sequestration' (subject to section 252(a)(4)) refer to or mean the reduction or cancellation of new budget authority; unobligated balances, new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974; and obligation limitations.".

(5) DEFINITION OF SEQUESTERABLE RESOURCE.—Section 257 of the Act is amended by adding after paragraph (8) the following new paragraph:

"(9) The term 'sequesterable resource' means new budget authority; unobligated balances; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974; and obligation limitations for budget accounts, programs, projects, and activities that are not exempt from reduction or sequestration under this part.".

(6) CLARIFYING AMENDMENT RESPECTING APPROPRIATED ENTITLEMENTS.—Section 257 of the Act is amended by adding after paragraph (10) the following new paragraph:

"(11) As used in this part, all references to section 401(c)(2) of the Congressional Budget Act of 1974 shall include (but are not limited to) payments to any person or government under terms of law for the following programs:

"(A) Claims, defense (97-0102-0-1-051).

"(B) Veterans compensation (36-0153-0-1-701).

"(C) Veterans pensions (36-0154-0-1-701).

"(D) Burial benefits and miscellaneous assistance (36-0155-0-1-701).

"(E) Readjustment benefits (36-0137-0-1-702). 101 STAT. 774

"(F) Loan guaranty revolving fund (36-4025-0-3-704).

"(G) Guaranteed student loans (91-0230-0-1-502).

"(H) Social services block grant (75-1634-0-1-506).

"(I) Family social services (75-1645-0-1-506).

"(J) Rehabilitation services and handicapped research (91-0301-0-1-506).

"(K) Grants to States for medicaid (75-0512-0-1-551).

"(L) Special benefits for disabled coal miners (75-0409-0-1-601).

"(M) Black lung disability trust fund (20-8144-0-7-601).

"(N) Special benefits (16-1521-0-1-602).

"(O) Federal unemployment benefits and allowances (16-0326-0-1-603).

"(P) Supplemental security income program (75-0406-0-1-609).

"(Q) Family support payments to States (75-1501-0-1-609).

"(R) Food stamp program (12-3505-0-1-605).

"(S) Child nutrition programs (12-3539-0-1-605).

"(T) Retired pay, coast guard (69-0241-0-1-403).

"(U) Government payment for annuitants, employees health benefits (24-0206-0-1-551).".

2 USC 907.

(7) DEFINITIONS OF ASSET SALE AND LOAN PREPAYMENT.—Section 257 of the Act is amended by adding after paragraph (11) the following new paragraph:

"(12) The sale of an asset means the sale to the public of any asset, whether physical or financial, owned in whole or in part by the United States. The term 'prepayment of a loan' means payments to the United States made in advance of the schedules set by law or contract when the financial asset is first acquired, such as the prepayment to the Federal Financing Bank of loans guaranteed by the Rural Electrification Administration. If a law or contract allows a flexible payment schedule, the term 'in advance' shall mean in advance of the slowest payment schedule allowed under such law or contract.".

(8) DEFINITION OF OUTLAY RATE.—Section 257 of the Act is amended by adding after paragraph (12) the following new paragraphs:

"(13) The term 'outlay rate', with respect to any budget account, program, project, or activity, means—

"(A) the ratio of outlays resulting in the fiscal year involved from new budgetary resources for such budget account, program, project, or activity to such new budgetary resources; or

"(B) the ratio of outlays resulting in the fiscal year involved from unobligated balances for such budget account, program, project, or activity to such unobligated balances.

"(14) The term 'combined outlay rate', with respect to any budget account, program, project, or activity, means the weighted average (by budgetary resources) of the ratios determined under subparagraphs (A) and (B) of paragraph (13) for such budget account, program, project, or activity.".

2 USC 922.

(9) ALTERNATE PROCEDURES.—Section 274(f) of the Act is amended—

(A) by striking out paragraph (1) and by inserting in lieu thereof the following new paragraph:

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"(1) In the event that any of the reporting procedures described in section 251 are invalidated, then any report of the Director of CBO under section 251(a)(2)(A) or 251(c)(1) shall be transmitted to the joint committee established under this subsection.".

(B) in paragraphs (2) and (3) by striking out "Directors" both places it appears therein and by inserting in lieu thereof "Director of CBO"; and

(C) in paragraph (5) by striking out "section 251 (b) or (c)(2)" and by inserting in lieu thereof "section 251 (a)(2)(B) or (c)(2)".

2 USC 922.

(10) COMPTROLLER GENERAL'S ESTIMATES.—Subsection (h) of section 274 of the Act is amended—

(A) by striking out "Comptroller General" both times it appears therein and by inserting in lieu thereof "Director of OMB" and by striking out "section 251(b)" and by inserting in lieu thereof "section 251(a)(2)(B)"; and

(B) by striking out ", assumptions, and methodologies" and by inserting in lieu thereof "and economic assumptions".

2 USC 906.

(11) CONFORMING MEDICARE AMENDMENT.—Section 256(d)(1)(B) of the Act is amended by inserting after "2 percent" the following: "(or such higher percentage as may apply as determined in accordance with section 252(a)(4)(B)(ii))".

SEC. 103. COMPLIANCE REPORT BY COMPTROLLER GENERAL.

2 USC 903.

Section 253 of the Act is amended to read as follows:

"SEC. 253. COMPLIANCE REPORT BY COMPTROLLER GENERAL.

"On or before November 15 of each fiscal year (or December 15, 1987, in the case of the fiscal year 1988), the Comptroller General

shall submit to the Congress and the President a report on—

"(1) the extent to which each order issued by the President under section 252 for such fiscal year complies with all of the requirements contained in section 252, either certifying that the order fully and accurately complies with such requirements or indicating the respects in which it does not;

"(2) the extent to which each report of the Director of OMB under section 251 for such fiscal year complies with all of the requirements contained in this part, either certifying that the report fully and accurately complies with such requirements or indicating the respects in which it does not; and

"(3) any recommendations of the Comptroller General for improving the procedures set forth in this part.".

SEC. 104. EXEMPT PROGRAMS AND ACTIVITIES.

(a) CLARIFYING AMENDMENTS.—(1) Section 255(h) of the Act is amended by including after the item relating to child nutrition the following new item: 2 USC 905.

"Commodity supplemental food program (12-3512-0-1-605);".

(2) Section 255(g)(1) of the Act is amended—

(A) by inserting after the item relating to intragovernmental funds the following new item:

"Medical facilities guarantee and loan fund, Federal interest subsidies for medical facilities (75-4430-03-551);".

(B) by inserting after the item relating to the Health Education Assistance Loan Program the following new item: 101 STAT. 776

"Higher education facilities loans and insurance (91-0240-01-502);".

(C) by inserting after the item relating to the Bonneville Power Administration the following new item:

"Bureau of Indian Affairs, miscellaneous payments to Indians (14-2303-0-1-452);".

(D) by inserting before the item relating to the Postal service fund the following new item:

"Payments to widows and heirs of deceased Members of Congress (00-0215-0-1-801);".

(E) by inserting before the item relating to the Alaska Power Administration the following new item:

"Thrift Savings Fund (26-8141-0-7-602);".

(F) by inserting after the item relating to the Tennessee Valley Authority the following new item:

"Washington Metropolitan Area Transit Authority, interest payments (46-0300-0-1-401);".

(3) Section 256(b)(4) of the Act is amended by inserting at the end thereof the following new subparagraph: 2 USC 906.

"(G) Federal Retirement Thrift Investment Board.".

(4) Section 256(e) of the Act is amended by striking out "Any order" and by inserting in lieu thereof "Notwithstanding any change in the display of budget accounts, any order".

(b) AMENDMENTS TO SPECIFICALLY INCLUDE IN THIS ACT EXEMPTIONS ENACTED SINCE 1985.—(1) Section 255(b) of the Act is amended by inserting after the colon the following: 2 USC 905.

"National Service Life Insurance Fund (36-8132-0-7-701);

"Service-Disabled Veterans Insurance Fund (36-4012-0-3-701);

"Veterans Special Life Insurance Fund (36-8455-0-8-701);

"Veterans Reopened Insurance Fund (36-4010-0-3-701);

"United States Government Life Insurance Fund (36-8150-0-7-701);

"Veterans Insurance and Indemnity (36-0120-0-1-701);

"Special Therapeutic and Rehabilitation Activities Fund (36-4048-0-3-703);

"Veterans' Canteen Service Revolving Fund (36-4014-0-3-705);

"Benefits under chapter 21 of title 38, United States Code, relating to specially adapted housing and mortgage-protection

life insurance for certain veterans with service-connected disabilities (36-0137-0-1-702);

"Benefits under section 907 of title 38, United States Code, relating to burial benefits for veterans who die as a result of service-connected disability (36-0155-0-1-701);

"Benefits under chapter 39 of title 38, United States Code, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces (36-0137-0-1-702);".

(2) Section 255(g)(1) of the Act is amended—

(A) by inserting after the item relating to intragovernmental funds the following new item:

"Panama Canal Commission, operating expenses (95-5190-0-2-403), and Panama Canal Commission, capital outlay (95-5190-0-2-403);";

(B) by inserting after the item relating to payments to trust funds the following new item:

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"Payments to the United States territories, fiscal assistance (14-0418-0-1-852);";

(C) by inserting after the item relating to compensation of the President the following new item:

"Customs Service, miscellaneous permanent appropriations (20-9922-0-2-852);";

(D) by inserting before the item relating to intragovernmental funds the following new item:

"Internal Revenue Collections for Puerto Rico (20-5737-0-2-852);";

(E) by inserting after the first item the following new item:

"Administration of Territories, Northern Mariana Islands Covenant grants (14-0412-0-1-806);"; and

(F) by inserting after the item relating to payments to the military retirement fund the following new item:

"Compact of Free Association, economic assistance pursuant to Public Law 99-658 (14-0415-0-1-806);".

2 USC 905.

(3) Section 255(g)(1) of the Act is amended by inserting "(A)" after "(1)" and by inserting at the end thereof the following new subparagraph:

"(B) The following budget accounts and activities shall be exempt from reduction under any order issued under this part:

"Black lung benefits (20-8144-0-7-601);

"Central Intelligence Agency retirement and disability system fund (56-3400-0-1-054);

"Civil service retirement and disability fund (24-8135-0-7-602);

"Comptrollers general retirement system (05-0107-0-1-801);

"Foreign service retirement and disability fund (19-8186-0-7-602);

"Judicial survivors' annuities fund (10-8110-0-7-602);

"Longshoremen's and harborworkers' compensation benefits (16-9971-0-7-601);

"Military retirement fund (97-8097-0-7-602);

"National Oceanic and Atmospheric Administration retirement (13-1450-0-1-306);

"Pensions for former Presidents (47-0105-0-1-802);

"Railroad retirement tier II (60-8011-0-7-601);

"Retired pay, Coast Guard (69-0241-0-1-403);

"Retirement pay and medical benefits for commissioned officers, Public Health Service (75-0379-0-1-551);

"Special benefits, Federal Employees' Compensation Act (16-1521-0-1-600);

"Special benefits for disabled coal miners (75-0409-0-1-601); and

"Tax Court judges survivors annuity fund (23-8115-0-7-602).".

(c) CONFORMING AMENDMENTS.—(1) Section 255(g)(2) of the Act is amended by repealing the items relating to veterans with the exception of the items relating to the Loan guaranty revolving fund and the Servicemen's group life insurance fund. Veterans.

(2) Paragraph (1) of section 257 of the Act is amended by striking out subparagraph (A), by striking out the dash, and by striking out "(B)". 2 USC 907.

SEC. 105. MODIFICATION OF PRESIDENTIAL ORDER.

(a) IN GENERAL.—Part C of the Act is amended by inserting at the end thereof the following new section:

"SEC. 258. MODIFICATION OF PRESIDENTIAL ORDER. 2 USC 908.

"(a) INTRODUCTION OF JOINT RESOLUTION.—At any time after the Director of OMB issues a report under section 251(c)(2) for a fiscal year, but before the close of the tenth calendar day of session in that session of Congress beginning after the date of issuance of such report, the majority leader of either House of Congress may introduce a joint resolution which contains provisions directing the President to modify the most recent order issued under section 252 for such fiscal year. After the introduction of the first such joint resolution in either House of Congress in any calendar year, then no other joint resolution introduced in such House in such calendar year shall be subject to the procedures set forth in this section.

"(b) PROCEDURES FOR CONSIDERATION OF JOINT RESOLUTIONS.—

"(1) NO REFERRAL TO COMMITTEE.—A joint resolution introduced in the Senate or the House of Representatives under subsection (a) shall not be referred to a committee of the Senate or the House of Representatives, as the case may be, and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection.

"(2) IMMEDIATE CONSIDERATION.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is introduced under subsection (a), notwithstanding any rule or precedent of the Senate, including Rule 22 of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived, except for points of order under titles III or IV of the Congressional Budget Act of 1974. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution (to which the motion applies) is introduced. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the respective House until disposed of.

"(3) DEBATE.—

"(A) In the Senate, debate on a joint resolution introduced under subsection (a), amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees). In the House, general debate on a joint resolution introduced under subsection (a) shall

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be limited to not more than 4 hours which shall be equally divided between the majority and minority leaders.

"(B) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order. In the Senate, a motion to recommit the joint resolution is not in order. In the House, a motion further to limit debate is in order and not debatable. In the House, a motion to recommit is in order.

"(C)(i) In the House of Representatives, an amendment and any amendment thereto is debatable for not to exceed 30 minutes to be equally divided between the proponent of the amendment and a Member opposed thereto.

"(ii) No amendment that is not germane or relevant to the provisions of the joint resolution or to the order issued under section 252(b)(1) shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between the majority leader and the minority leader (or their designees).

"(iii) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

"(4) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a joint resolution introduced under subsection (a), a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, and the disposition of any amendments under paragraph (3) (except for the motion to recommit in the House of Representatives), the vote on final passage of the joint resolution shall occur.

"(5) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

"(6) CONFERENCE REPORTS.—In the Senate, points of order under titles III and IV of the Congressional Budget Act of 1974 (including points of order under sections 302(c), 303(a), 306, and 401(b)(1)) are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

"(7) RESOLUTION FROM OTHER HOUSE.—If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (a), the Senate receives from the House of Representatives a joint resolution introduced under subsection (a), then the following procedures shall apply:

"(A) The joint resolution of the House of Representatives shall not be referred to a committee.

"(B) With respect to a joint resolution introduced under subsection (a) in the Senate—

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"(i) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

"(ii)(I) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

"(II) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes it, the

Senate shall be considered to have passed the joint resolution as amended by the text of the Senate joint resolution.

"(C) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

"(8) SENATE ACTION ON HOUSE RESOLUTION.—If the Senate receives from the House of Representatives a joint resolution introduced under subsection (a) after the Senate has disposed of a Senate originated resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.".

(b) CLERICAL AMENDMENT.—The table of contents set forth in section 200(b) of the Act is amended by inserting after the item relating to section 257 the following new item:

"Sec. 258. Modification of Presidential order.".

SEC. 106. MAXIMUM DEFICIT AMOUNTS.

(a) REVISION OF DEFINITION OF MAXIMUM DEFICIT AMOUNT.—Paragraph (7) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking out subparagraphs (D) through (F) and by inserting in lieu thereof the following: 2 USC 622.

"(D) with respect to the fiscal year beginning October 1, 1987, $144,000,000,000;

"(E) with respect to the fiscal year beginning October 1, 1988, $136,000,000,000;

"(F) with respect to the fiscal year beginning October 1, 1989, $100,000,000,000;

"(G) with respect to the fiscal year beginning October 1, 1990, $64,000,000,000;

"(H) with respect to the fiscal year beginning October 1, 1991, $28,000,000,000; and

"(I) with respect to the fiscal year beginning October 1, 1992, zero.".

(b) DEFINITION OF MARGIN.—Section 257 of the Act is amended by inserting after paragraph (9) the following new paragraph: 2 USC 907.

"(10) The term 'margin' means $10,000,000,000 with respect to each of fiscal years 1988 through 1992 and zero with respect to fiscal year 1993.".

(c) REVISION OF EXPIRATION DATE OF THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Subsection (b)(1) of section 275 of the Act is amended by striking out "September 30, 1991" and by inserting in lieu thereof "September 30, 1993". 101 STAT. 781 2 USC 901 note.

(d) SECTION 301(i) POINT OF ORDER.—Paragraph (2) of section 301(i) of the Congressional Budget Act of 1974 is amended by inserting "(A)" before "Paragraph" and by adding at the end thereof the following new paragraphs: 2 USC 632.

"(B) Paragraph (1) shall not apply to the consideration of any concurrent resolution on the budget for fiscal year 1988 or fiscal year 1989, or amendment thereto or conference report thereon, if such concurrent resolution or conference report provides, or in the case of an amendment if the concurrent resolution as changed by the adoption of such amendment would provide for deficit reduction from a budget baseline estimate as specified in section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year (based on laws in effect on January 1 of the calendar year during which the fiscal year begins) equal to or greater than the maximum amount of unachieved deficit reduction for such fiscal year as specified in section 251(a)(3)(A) of such Act.

"(C) For purposes of the application of subparagraph (B), the amount of deficit reduction for a fiscal year provided for in a concurrent resolution, or amendment thereto or conference report thereon, shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or of the Senate, as the case may be.".

(e) SECTION 311(a) POINT OF ORDER IN THE SENATE.—

2 USC 642.

(1) Section 311(a) of the Congressional Budget Act of 1974 is amended by striking out all after "in the Senate," and by inserting in lieu thereof the following: "would otherwise result in a deficit for such fiscal year that—

"(A) for fiscal year 1989 or any subsequent fiscal year, exceeds the maximum deficit amount specified for such fiscal year in section 3(7); and

"(B) for fiscal year 1988 or 1989, exceeds the amount of the estimated deficit for such fiscal year based on laws and regulations in effect on January 1 of the calendar year in which such fiscal year begins as measured using the budget baseline specified in section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 minus $23,000,000,000 for fiscal year 1988 or $36,000,000,000 for fiscal year 1989;

except to the extent that paragraph (1) of section 301(i) or section 304(b), as the case may be, does not apply by reason of paragraph (2) of such subsection.".

2 USC 904.

(2) Section 254(b)(1)(E) of the Act is amended by inserting "and for fiscal year 1988 or 1989, exceed the amount of the estimated deficit for such fiscal year based on laws and regulations in effect on January 1 of the calendar year in which such fiscal year begins as measured using the budget baseline specified in section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 minus $23,000,000,000 for fiscal year 1988 or $36,000,000,000 for fiscal year 1989;" after "maximum deficit amount for such fiscal year,".

(f) PRESIDENT'S BUDGET.—Section 1105(f) of title 31, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (5); and

(2) by inserting after paragraph (2) the following new paragraphs:

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"(3) The budget transmitted pursuant to subsection (a) for a fiscal year shall include a budget baseline estimate made in accordance with section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 and using economic and technical assumptions consistent with the current services budget submitted under section 1109 for the fiscal year. If such budget baseline estimate differs from the estimate in the current services budget, the President shall explain the differences. The budget transmitted pursuant to subsection (a) for such fiscal year shall include the information required by section 251(a)(2) of such Act (other than account-level detail) assuming that the deficit in such budget baseline were the amount estimated by the Director of the Office of Management and Budget on August 25 of the calendar year in which the fiscal year begins.

"(4) Paragraphs (1) and (2) shall not apply with respect to fiscal year 1989 if the budget transmitted for such fiscal year provides for deficit reduction from a budget baseline deficit for such fiscal year (as defined by section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 and based on laws in effect on January 1, 1988) equal to or greater than $36,000,000,000.".

SEC. 107. SPECIAL RULES FOR MEDICARE PROGRAM.

42 USC 1395ww note.

(a) TEMPORARY EXTENSION OF PAYMENT POLICIES FOR INPATIENT HOSPITAL SERVICES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, with respect to payment for inpatient hospital services under section 1886 of the Social Security Act:

(A) TEMPORARY FREEZE IN PPS HOSPITAL RATES.—For purposes of subsection (d) of such section for discharges occur-

ring during the period beginning on October 1, 1987, and ending on November 20, 1987 (in this paragraph referred to as the "extension period"), the applicable percentage increase under subsection (b)(3)(B) of such section with respect to fiscal year 1988 is deemed to be 0 percent.

(B) TEMPORARY FREEZE IN PAYMENT BASIS.—

(i) EXTENSION OF BLENDED DRG RATE.—For purposes of subsection (d)(1) of such section, the "applicable combined adjusted DRG prospective payment rate" for discharges occurring—

(I) during the extension period is the rate specified in subsection (d)(1)(D)(ii) of such section, or

(II) after such period is the national adjusted prospective payment rate determined under subsection (d)(3) of such section.

(ii) EXTENSION OF HOSPITAL-SPECIFIC PAYMENT.—For the first 51 days of a hospital cost reporting period beginning during fiscal year 1988, payment shall be made under clause (ii) (rather than clause (iii)) of subsection (d)(1)(A) of such section (subject to clause (i) of this subparagraph).

(C) TEMPORARY FREEZE IN AMOUNTS OF PAYMENT FOR CAPITAL.—For payments attributable to portions of cost reporting periods occurring during the extension period, the percent specified in subsection (g)(3)(A)(ii) of such section is deemed to be 3.5 percent.

(D) TEMPORARY FREEZE IN RETURN ON EQUITY REDUCTIONS.—For the first 51 days of a cost reporting period beginning during fiscal year 1988, subsection (g)(2) of such section shall be applied as though the applicable percentage were 75 percent. 101 STAT. 783

(E) TEMPORARY FREEZE IN PAYMENTS RATES FOR PPS-EXEMPT HOSPITALS.—For purposes of payment under subsection (b) of such section for cost reporting periods beginning during fiscal year 1988, with respect to the first 51 days of such a period the applicable percentage increase under paragraph (3)(B) of such subsection is deemed to be 0 percent.

(2) CONTINUATION OF CAPITAL POLICY.—Section 9321(c) of the Omnibus Budget Reconciliation Act of 1986 is amended— 42 USC 1395ww note.

(A) by striking "SEPTEMBER 1" in the heading of paragraph (1) and inserting "NOVEMBER 21",

(B) in paragraph (1), by striking "September 1, 1987" and inserting "November 21, 1987",

(C) in the second sentence of paragraph (1), by striking "before the date of the enactment of this Act", and

(D) in paragraph (4), by striking "second sentence" and all that follows through "operating costs" and inserting "second sentence of section 1886(a)(4) of the Social Security Act, from the term 'operating costs".

(b) FREEZING CERTAIN CHANGES IN MEDICARE PAYMENT REGULATIONS AND POLICIES.— 42 USC 1395ww note.

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services is not authorized to issue after September 18, 1987, and before November 21, 1987—

(A) any final regulation that changes the policy with respect to payment under title XVIII of the Social Security Act to providers of service for reasonable costs relating to unrecovered costs associated with unpaid deductible and coinsurance amounts incurred under such title;

(B) any final regulation, instruction, or other policy change which is primarily intended to have the effect of slowing down claims processing, or delaying payment of claims, under such title; or

(C) any final regulation that changes the policy under such title with respect to payment for a return on equity capital for outpatient hospital services.

The final regulation of the Health Care Financing Administration published on September 1, 1987 (52 Federal Register 32920) and relating to changes to the return on equity capital provisions for outpatient hospital services is void and of no effect.

(2) OTHER COST SAVINGS POLICIES.—Notwithstanding any other provision of law, except as required to implement specific provisions required under statute, the Secretary of Health and Human Services is not authorized to issue in final form, after September 18, 1987, and before November 21, 1987, any regulation, instruction, or other policy which is estimated by the Secretary to result in a net reduction in expenditures under title XVIII of the Social Security Act in fiscal year 1988 of more than $50,000,000. Any regulation, instruction, or policy which is issued in violation of this paragraph is void and of no effect.

(3) EXCEPTION.—Paragraphs (1) and (2) shall not be construed to apply to any regulation, instruction, or policy required to implement the amendment made by section 9311(a) of the Omnibus Budget Reconciliation Act of 1986 (relating to periodic interim payments).

101 STAT. 784

42 USC 1320b-8 note.

(c) DELAY IN ORGAN PROCUREMENT REQUIREMENTS.—Section 9318(b) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "October 1, 1987" each place it appears and inserting "November 21, 1987".

TITLE II—BUDGET PROCESS REFORM

2 USC 621 note.

SEC. 201. 2-YEAR APPROPRIATIONS.

It is the sense of the Congress that the Congress should undertake an experiment with multiyear authorizations and 2-year appropriations for selected agencies and accounts. An evaluation of the efficacy and desirability of such experiment should be conducted at the end of the 2-year period. The appropriate committees are directed to develop a plan in consultation with the leadership of the House and Senate to implement this experiment.

2 USC 909.

SEC. 202. PROHIBITION OF COUNTING AS SAVINGS THE TRANSFER OF GOVERNMENT ACTIONS FROM ONE YEAR TO ANOTHER.

(a) IN GENERAL.—Except as otherwise provided in this section, any law or regulation that has the effect of transferring an outlay, receipt, or revenue of the United States from one fiscal year to an adjacent fiscal year shall not be treated as altering the deficit or producing net deficit reduction in any fiscal year for purposes of the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EXCEPTIONS.—Subsection (a) shall not apply if the law making the transfer stipulates that such transfer—

(1) is a necessary (but secondary) result of a significant policy change;

(2) provides for contingencies; or

(3) achieves savings made possible by changes in program requirements or by greater efficiency of operations.

2 USC 621 note.

SEC. 203. FINANCIAL MANAGEMENT REFORM.

It is the sense of the Congress that the Congress should undertake a coordinated effort to identify problems and develop specific recommendations to reform the financial management systems of the United States Government, including consideration of the use of generally accepted accounting principles.

2 USC 653 note.

SEC. 204. EXTENSION OF STATE AND LOCAL COST ESTIMATES.

The State and Local Government Cost Estimate Act of 1981 is amended by striking out section 4.

SEC. 205. EXTRANEOUS PROVISIONS IN THE SENATE.

(a) PROHIBITION OF EXTRANEOUS MATTERS IN RECONCILIATION MEASURES IN THE SENATE.—Section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 7006 of the Omnibus Budget Reconciliation Act of 1986, is amended in subsection (c) by striking out "January 2, 1988" and inserting in lieu thereof "September 30, 1992". 100 Stat. 1949.

(b) PROVISIONS CONSIDERED TO BE EXTRANEOUS IN THE SENATE.—Subsection (d)(1)(A) of such section is amended by inserting before the period at the end thereof "; and (E) a provision shall be considered to be extraneous if it increases, or would increase, net outlays, or if it decreases, or would decrease, revenues during a fiscal year after the fiscal years covered by such reconciliation bill or reconciliation resolution, and such increases or decreases are greater than outlay reductions or revenue increases resulting from other provisions in such title in such year". 101 STAT. 785

(c) APPLICATION OF SUBSECTION (a) TO CERTAIN SENATE RESOLUTIONS.—Nothing in the amendment made by subsection (a) shall be construed as limiting the manner in which S. Res. 286 (99th Congress, 1st session), as amended by S. Res. 509 (99th Congress, 2d session), shall apply to reconciliation bills and reconciliation resolutions considered on or after the date of the enactment of this joint resolution.

SEC. 206. CODIFICATION OF LAW REGARDING DEFERRAL AUTHORITY.

(a) PROPOSED DEFERRALS OF BUDGET AUTHORITY.—Section 1013 of the Impoundment Control Act of 1974 is amended to read as follows: 2 USC 684.

"PROPOSED DEFERRALS OF BUDGET AUTHORITY

"SEC. 1013. (a) TRANSMITTAL OF SPECIAL MESSAGE.—Whenever the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States proposes to defer any budget authority provided for a specific purpose or project, the President shall transmit to the House of Representatives and the Senate a special message specifying— President of U.S.

"(1) the amount of the budget authority proposed to be deferred;

"(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific projects or governmental functions involved;

"(3) the period of time during which the budget authority is proposed to be deferred;

"(4) the reasons for the proposed deferral, including any legal authority invoked to justify the proposed deferral;

"(5) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed deferral; and

"(6) all facts, circumstances, and considerations relating to or bearing upon the proposed deferral and the decision to effect the proposed deferral, including an analysis of such facts, circumstances, and considerations in terms of their application to any legal authority, including specific elements of legal authority, invoked to justify such proposed deferral, and to the maximum extent practicable, the estimated effect of the proposed deferral upon the objects, purposes, and programs for which the budget authority is provided.

A special message may include one or more proposed deferrals of budget authority. A deferral may not be proposed for any period of time extending beyond the end of the fiscal year in which the special message proposing the deferral is transmitted to the House and the Senate.

"(b) CONSISTENCY WITH LEGISLATIVE POLICY.—Deferrals shall be permissible only—

"(1) to provide for contingencies;

"(2) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or

101 STAT. 786

"(3) as specifically provided by law.

No officer or employee of the United States may defer any budget authority for any other purpose.

"(c) EXCEPTION.—The provisions of this section do not apply to any budget authority proposed to be rescinded or that is to be reserved as set forth in a special message required to be transmitted under section 1012.".

(b) CONFORMING AMENDMENT.—The first sentence of section 1016 of the Impoundment Control Act of 1974 is amended by striking out "under section 1012(b) or 1013(b)" and by inserting in lieu thereof "under this title".

2 USC 687.

(c) REAFFIRMATION.—Sections 1015 and 1016 of the Impoundment Control Act of 1974 are reaffirmed.

2 USC 686 note.

SEC. 207. CLARIFICATION OF CONGRESSIONAL INTENT REGARDING RESCISSION AUTHORITY.

Section 1012(b) of the Impoundment Control Act of 1974 is amended by adding at the end thereof the following: "Funds made available for obligation under this procedure may not be proposed for rescission again.".

2 USC 683.

SEC. 208. ECONOMIC AND TECHNICAL ASSUMPTIONS.

(a) POINT OF ORDER.—Section 301(g) of the Congressional Budget Act of 1974 is amended to read as follows:

2 USC 632.

"(g) ECONOMIC ASSUMPTIONS.—

"(1) It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year, or any amendment thereto, or any conference report thereon, that sets forth amounts and levels that are determined on the basis of more than one set of economic and technical assumptions.

"(2) The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall set forth the common economic assumptions upon which such joint statement and conference report are based, or upon which any amendment contained in the joint explanatory statement to be proposed by the conferees in the case of technical disagreement, is based.

"(3) Subject to periodic reestimation based on changed economic conditions or technical estimates, determinations under titles III and IV of the Congressional Budget Act of 1974 shall be based upon such common economic and technical assumptions.".

(b) APPLICATION OF SECTION 301(g) POINT OF ORDER TO REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET.—Section 304 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following:

2 USC 635.

"(c) ECONOMIC ASSUMPTIONS.—The provisions of section 301(g) shall apply with respect to concurrent resolutions on the budget under this section (and amendments thereto and conference reports thereon) in the same way they apply to concurrent resolutions on the budget under such section 301(g) (and amendments thereto and conference reports thereon).".

101 STAT. 787

SEC. 209. CLARIFICATION OF CONGRESSIONAL INTENT REGARDING TIME LIMITS FOR CONFERENCE REPORTS ON CONCURRENT RESOLUTIONS ON THE BUDGET.

Section 305(c)(2) of the Congressional Budget Act of 1974 is amended by inserting "and all amendments in disagreement, and all amendments thereto, and debatable motions and appeals in connection therewith" after "budget,".

2 USC 636.

SEC. 210. APPEALS OF CERTAIN RULINGS IN THE SENATE.

(a) IN GENERAL.—Section 271 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by redesignating

2 USC 901 note.

subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) APPEALS OF RULINGS.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under section 301(i), 302(c), 302(f), 304(b), 306, 310(d), 310(g), or 311(a) of the Congressional Budget Act of 1974.".

(b) CONFORMING AMENDMENT.—Section 275(b)(2)(D) of such Act is amended by striking out "section 271(b)" and inserting in lieu thereof "subsections (b) and (c) of section 271". 2 USC 901 note.

SEC. 211. WAIVER OF SECTION 302(c) RELATING TO COMMITTEE ALLOCATIONS.

Section 271(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting "302(c)," after "301(i),". 2 USC 901 note.

SEC. 212. CREDIT REFORM. 2 USC 602 note.

The Congressional Budget Office, in consultation with the General Accounting Office, shall study and report to Congress on Federal direct loan and loan guarantee programs for fiscal year 1987 and fiscal year 1988. The report shall be submitted as soon as practicable to all congressional committees of appropriate jurisdiction. The report shall provide information and recommendations on: (1) more accurately measuring the costs to the Federal Government of such credit programs, (2) comparing the cost of credit programs to other forms of Federal assistance, and (3) improving the allocation of resources between credit and other programs. The report shall also discuss the considerations involved in establishing a system for using the information on the costs of credit programs as part of the budget process. Reports. Loans.

SEC. 213. EXERCISE OF RULEMAKING POWER. 2 USC 901 note.

This Act and the amendments made by this Act, other than those relating to the activities of the executive and judicial branches of the Government, are enacted by Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

101 STAT. 788

Approved September 29, 1987.

LEGISLATIVE HISTORY—H.J. Res. 324:

HOUSE REPORTS: No. 100-313 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 133 (1987):
June 23, considered and passed House pursuant to H. Con. Res. 93.
July 21, 23, 29-31, considered and passed Senate, amended.
Aug. 4, House disagreed to Senate amendments.
Sept. 22, House agreed to conference report.
Sept. 23, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
Sept. 29, Presidential statement and remarks.

101 STAT. 1330 *Public Law 100-203
100th Congress

An Act

Dec. 22, 1987
[H.R. 3545]

To provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Budget Reconciliation Act of 1987.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1987".

SEC. 2. TABLE OF CONTENTS.

Title I—Agriculture and related programs.
Title II—National Economic Commission.
Title III—Education programs.
Title IV—Medicare, medicaid, and other health-related programs.
Title V—Energy and environmental programs.
Title VI—Civil service and postal service programs.
Title VII—Veterans' programs.
Title VIII—Budget policy and fiscal procedures.
Title IX—Income security and related programs.
Title X—Revenues.

Agricultural Reconciliation Act of 1987.

TITLE I—AGRICULTURE AND RELATED PROGRAMS

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

7 USC 1421 note.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1987".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1001. Short title; table of contents.

Subtitle A—Adjustments to Agricultural Commodity Programs

Sec. 1101. Target price reductions.
Sec. 1102. Loan rates.
Sec. 1103. Feed grain diversion program.
Sec. 1104. Price support reduction for nontarget price commodities.
Sec. 1105. Loan rate differentials.
Sec. 1106. Storage cost adjustment.
Sec. 1107. Acreage limitation program for oats.
Sec. 1108. Producer reserve program.
Sec. 1109. Yield adjustments.
Sec. 1110. Advance payments.
Sec. 1111. Advanced emergency compensation payments for wheat.
Sec. 1112. Tobacco provisions.
101 STAT. 1330-1 Sec. 1113. Haying and grazing.

Subtitle B—Optional Acreage Diversion

Sec. 1201. Wheat optional acreage diversion program.
Sec. 1202. Feed grains optional acreage diversion program.
Sec. 1203. Regulations.

Subtitle C—Farm Program Payments

Sec. 1301. Prevention of the creation of entities to qualify as separate persons.
Sec. 1302. Payments limited to active farmers.
Sec. 1303. Definition of person: eligible individuals and entities; restrictions applicable to cash-rent tenants.
Sec. 1304. More effective and uniform application of payment limitations.

ENROLLMENT ERRATA

Pursuant to the provisions of section 8004 of this Act (appearing on 101 Stat. 1330-282), changes made are indicated by footnote.

*Note: For information on the printing of this law and a related Presidential memorandum, see the editorial note at the end.

Sec. 1305. Regulations; transition rules; equitable adjustments.
Sec. 1306. Foreign persons made ineligible for program benefits.
Sec. 1307. Honey loan limitation.

Subtitle D—Prepayment of Rural Electrification Loans [1]

Chapter 1—Prepayment of Rural Electrification Loans

Sec. 1401. Prepayment of loans.
Sec. 1402. Use of funds.
Sec. 1403. Cushion of credit payments program.

Chapter 2—Rural Telephone Bank Borrowers

Sec. 1411. Rural Telephone Bank interest rates and loan prepayments.
Sec. 1412. Interest rate to be considered for purposes of assessing eligibility for loans.
Sec. 1413. Establishment of reserve for losses due to interest rate fluctuations.
Sec. 1414. Publication of Rural Telephone Bank policies and regulations.

Subtitle E—Miscellaneous

Sec. 1501. Marketing order penalties.
Sec. 1502. Study of use of agricultural commodity futures and options markets.
Sec. 1503. Authorization of appropriations for Philippine food aid initiative.
Sec. 1504. Rural industrialization assistance.
Sec. 1505. Plant variety protection fees.
Sec. 1506. Annual appropriations to reimburse the Commodity Credit Corporation for net realized losses.
Sec. 1507. Federal crop insurance.
Sec. 1508. Ethanol usage.
Sec. 1509. Demonstration of family independence program.

Subtitle A—Adjustments to Agricultural Commodity Programs

SEC. 1101. TARGET PRICE REDUCTIONS.

(a) WHEAT.—Effective only for the 1988 and 1989 crops of wheat, section 107D(c)(1)(G) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(G)) is amended by striking out "$4.29 per bushel for the 1988 crop, $4.16 per bushel for the 1989 crop" and inserting in lieu thereof "$4.23 per bushel for the 1988 crop, $4.10 per bushel for the 1989 crop".

(b) FEED GRAINS.—Effective only for the 1988 and 1989 crops of feed grains, section 105C(c)(1)(E) of such Act (7 U.S.C. 1444e(c)(1)(E)) is amended by striking out "$2.97 per bushel for the 1988 crop, $2.88 per bushel for the 1989 crop" and inserting in lieu thereof "$2.93 per bushel for the 1988 crop, $2.84 per bushel for the 1989 crop".

(c) COTTON.—Effective only for the 1988 and 1989 crops of upland cotton, section 103A(c)(1)(D) of such Act (7 U.S.C. 1444-1(c)(1)(D)) is amended by striking out "$0.77 per pound for the 1988 crop, $0.745 per pound for the 1989 crop" and inserting in lieu thereof "$0.759 per pound for the 1988 crop, $0.734 per pound for the 1989 crop". 101 STAT. 1330-2

(d) EXTRA LONG STAPLE COTTON.—Effective only for the 1988 and 1989 crops of extra long staple cotton, section 103(h)(3)(B) of such Act (7 U.S.C. 1444(h)(3)(B)) is amended—

(1) by striking out "The" and inserting in lieu thereof "Except as provided in clause (ii), the"; and

(2) by adding at the end thereof the following new clause:

"(ii) In the case of each of the 1988 and 1989 crops of extra long staple cotton, the established price for each such crop shall be 118.3 percent of the loan level determined for such crop under paragraph (2).".

(e) RICE.—Effective only for the 1988 and 1989 crops of rice, section 101A(c)(1)(D) of such Act (7 U.S.C. 1441-1(c)(1)(D)) is amended by striking out "$11.30 per hundredweight for the 1988 crop, $10.95 per hundredweight for the 1989 crop" and inserting in lieu thereof "$11.15 per hundredweight for the 1988 crop, $10.80 per hundredweight for the 1989 crop".

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[1] Copy read "loans".

SEC. 1102. LOAN RATES.

(a) WHEAT.—Effective only for the 1988 through 1990 crops of wheat, section 107D(a)(3)(B) of the Agricultural Act of 1949 (7 U.S.C. 1445b–3(a)(3)(B)) is amended by striking out "not be reduced by more than 5 percent from the level determined for the preceding crop." and inserting in lieu thereof the following: "not be reduced by more than—

"(i) in the case of the 1987 crop, 5 percent from the level determined for the preceding crop;

"(ii) in the case of the 1988 crop, 3 percent from the level determined for the preceding crop;

"(iii) in the case of the 1989 crop, 5 percent from the level determined for the preceding crop, plus an additional 2 percent from the level determined for the preceding crop if the Secretary, after taking into account any reduction that is provided for under paragraph (4)(A)(ii), determines that such additional percentage reduction is necessary to maintain a competitive market position for wheat; and

"(iv) in the case of the 1990 crop, 5 percent from the level determined for the preceding crop.".

(b) FEED GRAINS.—Effective only for the 1988 through 1990 crops of feed grains, section 105C(a)(2)(B) of such Act (7 U.S.C. 1444e(a)(2)(B)) is amended by striking out "not be reduced by more than 5 percent from the level determined for the preceding crop." and inserting in lieu thereof the following: "not be reduced by more than—

"(i) in the case of the 1987 crop, 5 percent from the level determined for the preceding crop;

"(ii) in the case of the 1988 crop, 3 percent from the level determined for the preceding crop;

"(iii) in the case of the 1989 crop, 5 percent from the level determined for the preceding crop, plus an additional 2 percent from the level determined for the preceding crop if the Secretary, after taking into account any reduction that is provided for under paragraph (3)(A)(ii), determines that such additional percentage reduction is necessary to maintain a competitive market position for feed grains; and

101 STAT. 1330–3

"(iv) in the case of the 1990 crop, 5 percent from the level determined for the preceding crop.".

(c) COTTON.—Effective only for the 1988 through 1990 crops of upland cotton, subparagraph (A) of section 103A(a)(2) of such Act (7 U.S.C. 1444–1(a)(2)(A)) is amended to read as follows:

"(A) The loan level for any crop determined under paragraph (1)(B) may not be reduced below 50 cents per pound nor more than—

"(i) in the case of the 1987 crop, 5 percent from the level determined for the preceding crop;

"(ii) in the case of the 1988 crop, 3 percent from the level determined for the preceding crop;

"(iii) in the case of the 1989 crop, 5 percent from the level determined for the preceding crop, plus an additional 2 percent from the level determined for the preceding crop if the Secretary determines that such additional percentage reduction is necessary to maintain a competitive market position for upland cotton; and

"(iv) in the case of the 1990 crop, 5 percent from the level determined for the preceding crop.".

(d) RICE.—Effective only for the 1988 through 1990 crops of rice, paragraph (2) of section 101A(a) of such Act (7 U.S.C. 1441–1(a)(2)) is amended to read as follows:

"(2) The loan level for any crop determined under paragraph (1)(B) may not be reduced by more than—

"(A) in the case of the 1987 crop, 5 percent from the level determined for the preceding crop;

"(B) in the case of the 1988 crop, 3 percent from the level determined for the preceding crop;

"(C) in the case of the 1989 crop, 5 percent from the level determined for the preceding crop, plus an additional 2 percent from the level determined for the preceding crop if the Secretary determines that such additional percentage reduction is necessary to maintain a competitive market position for rice; and

"(D) in the case of the 1990 crop, 5 percent from the level determined for the preceding crop.".

SEC. 1103. FEED GRAIN DIVERSION PROGRAM.

Effective only for the 1988 and 1989 crops of feed grains, section 105C(f)(5) of the Agricultural Act of 1949 (7 U.S.C. 1444e(f)(5)) is amended by adding at the end thereof the following new subparagraph:

"(D)(i) In the case of the 1988 and 1989 crops of corn, grain sorghums, and barley, except as provided in clause (ii), the Secretary shall make land diversion payments to producers of corn, grain sorghums, and barley, in accordance with this paragraph, under which the required reduction in the crop acreage base shall be 10 percent and the diversion payment rate shall be $1.75 per bushel for corn. The Secretary shall establish the diversion payment rate for grain sorghums and barley at such level as the Secretary determines is fair and reasonable in relation to the rate established for corn.

"(ii) In the case of the 1989 crop of corn, grain sorghums, or barley, the Secretary may waive the application of clause (i) if the Secretary determines that it is necessary to maintain an adequate supply of corn, grain sorghums, or barley.". 101 STAT. 1330-4

SEC. 1104. PRICE SUPPORT REDUCTION FOR NONTARGET PRICE COMMODITIES.

(a) TOBACCO.—Effective only for the 1988 and 1989 crops of tobacco, section 106(f) of the Agricultural Act of 1949 (7 U.S.C. 1445(f)) is amended by adding at the end thereof the following new paragraph:

"(8)(A) Notwithstanding any other provision of this subsection, in the case of each of the 1988 and 1989 crops of any kind of tobacco, the Secretary shall reduce the support level for such crop by an amount equal to 1.4 percent of the level otherwise established under this subsection. Any such reduction shall not be taken into consideration in determining the support level for a subsequent crop of tobacco.

"(B) In lieu of making any such reduction, the Secretary may impose assessments on the producers and purchasers in an amount sufficient to realize a reduction in outlays equal to the amount that would have been achieved as a result of the reduction required under subparagraph (A). Such assessments shall not apply to purchasers if it is judicially determined that the imposition of the purchaser assessment will adversely affect the contracts entered into under section 1109 of the Consolidated Omnibus Budget Reconciliation Act of 1986 (7 U.S.C. 1445-3).". Contracts.

(b) PEANUTS.—Effective only for the 1988 and 1989 crops of peanuts, section 108B of such Act (7 U.S.C. 1445c-2) is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any other provision of this section, in the case of each of the 1988 and 1989 crops of peanuts, the Secretary shall reduce outlays under the program provided for under this subsection by an amount equal to 1.4 percent of the amount of outlays that would otherwise be incurred in the absence of the reduction required by this paragraph.".

(c) HONEY.—Effective only for the 1987 through 1990 crops of honey, section 201(b)(1) of such Act (7 U.S.C. 1446(b)(1)) is amended by adding at the end thereof the following new subparagraph:

"(D) Notwithstanding the foregoing provisions of this paragraph, effective for each of the 1987 through 1990 crops, the loan and purchase level for honey that would otherwise apply under subparagraphs (B) and (C), without regard to this subparagraph, shall be reduced for loans and purchases made after the date of the enactment of this subparagraph by 2 cents per pound for the 1987 crop, ¾ cents per pound for the 1988 crop, ½ cent per pound for the 1989 crop, and ¼ cent per pound for the 1990 crop.".

(d) MILK.—Section 201(d)(2) of such Act (7 U.S.C. 1446(d)) is amended—

(1) in subparagraph (C), by striking out "subparagraph (A)" and inserting in lieu thereof "this paragraph"; and

(2) by adding at the end thereof the following new subparagraph:

"(F) During calendar year 1988, the Secretary shall provide for a reduction of 2½ cents per hundredweight to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use.".

(e) SUGAR.—Section 201(j) of such Act (7 U.S.C. 1446(j)) is amended
101 STAT. 1330-5 by adding at the end thereof the following new paragraph:

"(7) Notwithstanding any other provision of this section, in the case of each of the 1988 and 1989 crops of sugar beets and sugarcane, the Secretary shall reduce outlays under the program provided for under this subsection by an amount equal to 1.4 percent of the amount of outlays that would otherwise be incurred in the absence of the reduction required by this paragraph.".

(f) WOOL AND MOHAIR.—Section 703(b) of the National Wool Act of 1954 (7 U.S.C. 1782) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) Except as provided in paragraphs (2) and (3), the";

(2) by striking out ": *Provided,*" and all that follows through the period and inserting in lieu thereof a period; and

(3) by adding at the end thereof the following new paragraphs:

"(2) Except as provided in paragraph (3), for the marketing years beginning January 1, 1982, and ending December 31, 1990, the support price for shorn wool shall be 77.5 percent (rounded to the nearest full cent) of the amount calculated according to paragraph (1).

"(3) For the marketing years beginning January 1, 1988, and ending December 31, 1989, the support price for shorn wool shall be 76.4 percent (rounded to the nearest full cent) of the amount calculated according to paragraph (1).".

SEC. 1105. LOAN RATE DIFFERENTIALS.

Section 403 of the Agricultural Act of 1949 (7 U.S.C. 1423) is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding provisions of this section, for each of the 1988 through 1990 crops of wheat and feed grains, no adjustment in the loan rate applicable to a particular region, State, or county for the purpose of reflecting transportation differentials may increase or decrease such regional, State, or county loan rate from the level established for the previous year by more than the percentage change in the national average loan rate plus or minus 2 percent.".

15 USC 714b note.

SEC. 1106. STORAGE COST ADJUSTMENT.

For the fiscal years 1988 and 1989, the Secretary of Agriculture shall ensure that expenditures of the Commodity Credit Corporation for commercial storage, transportation, and handling of commodities owned by the Corporation (excluding storage payments made in accordance with section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e)) are reduced by $230,000,000 in such fiscal years from the amount of funds otherwise projected to be expended in fiscal years

1988 and 1989 under the budget base determined under section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901) for commercial storage, transportation, and handling of such commodities. In order to achieve the savings required by this section, the Secretary shall adjust storage, handling, or transportation expenditures paid by the Corporation or take other appropriate actions.

SEC. 1107. ACREAGE LIMITATION PROGRAM FOR OATS.

Effective only for the 1988 through 1990 crops of feed grains, section 105C(f)(2) of the Agricultural Act of 1949 (7 U.S.C. 1444e(f)(2)) is amended by adding at the end thereof the following new subparagraph:

101 STAT. 1330-6

"(G) In the case of the 1988 through 1990 crops of oats, the Secretary shall not establish a percentage reduction in accordance with paragraph (1) in excess of 5 percent. In implementing this subparagraph, the Secretary shall issue regulations that provide for the fair and equitable treatment of producers on a farm for which an oat and barley crop acreage base has been established. To ensure the efficient and fair implementation of this subparagraph, the Secretary shall announce revisions of the acreage limitation program for the 1988 crop of feed grains that implement this subparagraph as soon as practicable after the date of enactment of the Agricultural Reconciliation Act of 1987. In the case of the 1990 crop of oats, the Secretary may waive the application of this subparagraph if the Secretary determines that the supply of oats will be excessive.". Regulations.

SEC. 1108. PRODUCER RESERVE PROGRAM.

Subparagraph (A) of the fourth sentence of section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e(b)) is amended—

(1) in clause (i), by striking out "17 percent of the estimated total domestic and export usage of wheat during the then current marketing year for wheat, as determined by the Secretary" and inserting in lieu thereof "300 million bushels"; and

(2) in clause (ii), by striking out "7 percent of the estimated total domestic and export usage of feed grains during the then current marketing year for feed grains, as determined by the Secretary" and inserting in lieu thereof "450 million bushels".

SEC. 1109. YIELD ADJUSTMENTS.

Effective only for the 1988 through 1990 crops of wheat, feed grains, upland cotton, and rice, section 506(b)(2) of the Agricultural Act of 1949 (7 U.S.C. 1466(b)(2)) is amended by adding at the end thereof the following new subparagraph:

"(C) In the case of each of the 1988 through 1990 crop years for a commodity, if the farm program payment yield for a farm is reduced more than 10 percent below the farm program payment yield for the 1985 crop year, the Secretary shall make available to producers established price payments for the commodity in such amount as the Secretary determines is necessary to provide the same total return to producers as if the farm program payment yield had not been reduced more than 10 percent below the farm program payment yield for the 1985 crop year. Such payments shall be made available to producers at the time final deficiency payments are made available.".

SEC. 1110. ADVANCE PAYMENTS.

Effective only for the 1988 through 1990 crops of wheat, feed grains, upland cotton, and rice, section 107C(a) of the Agricultural Act of 1949 (7 U.S.C. 1445b-2(a)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) If the Secretary establishes an acreage limitation or set-aside program for any of the 1988 through 1990 crops of wheat, feed

grains, upland cotton, or rice under this Act and determines that deficiency payments will likely be made for such commodity for such crop, the Secretary shall make advance deficiency payments
101 STAT. 1330-7 available to producers for each of such crops."; and

(2) in paragraph (2)(F), by striking out clause (iii) and inserting in lieu thereof the following new clause:

"(iii)(I) in the case of wheat and feed grains, not less than 40 percent, nor more than 50 percent, of the projected payment rate; and

"(II) in the case of rice and upland cotton, not less than 30 percent, nor more than 50 percent, of the projected payment rate,".

SEC. 1111. ADVANCED EMERGENCY COMPENSATION PAYMENTS FOR WHEAT.

Effective only for the 1987 through 1990 crops of wheat, section 107D(c)(1)(E) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(E)) is amended by adding at the end thereof the following new clauses:

"(iii) Notwithstanding any other provision of this Act, in the case of each of the 1987 through 1990 crops of wheat, the Secretary shall—

"(I) by December 1 of each of the marketing years for such crops (or, in the case of the 1987 crop, as soon as practicable after the date of enactment of the Agricultural Reconciliation Act of 1987), estimate the national weighted average market price, per bushel of wheat, received by producers during such marketing year;

"(II) by December 15 of such marketing year (or, in the case of the 1987 crop, as soon as practicable, but not later than 75 days, after the date of enactment of such Act), use the estimate to make available to producers who have elected the payment option authorized by this clause not less than 75 percent of the increase in established price payments estimated to be payable with respect to such crop under this subparagraph; and

"(III) adjust the amount of each final established price payment for wheat to reflect any difference between the amount of any estimated payment made under this clause and the amount of actual payment due under this subparagraph.

"(iv) Producers shall elect the payment option authorized by clause (iii)—

"(I) in the case of the 1987 crop of wheat, not later than 45 days after the date of the enactment of this clause; and

Contracts. "(II) in the case of each of the 1988 through 1990 crops of wheat, at the time of entering into a contract to participate in the program established by this section for the crop.".

SEC. 1112. TOBACCO PROVISIONS.

(a) TRANSFER AUTHORITY.—Section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 316(h)) is amended by adding at the end thereof the following new subsection:

7 USC 1314b.

"(h)(1) Notwithstanding any other provision of this section, the Secretary may permit, after June 30 of any crop year, the lease and transfer of flue-cured tobacco quota assigned to a farm if—

"(A) the planted acreage of flue-cured tobacco on the farm to which the quota is assigned is determined by the Secretary to be equal to or greater than 90 percent of the farm's acreage allotment, or the planted acreage is determined to be sufficient to produce the farm marketing quota under average conditions;
101 STAT. 1330-8 and

"(B) the farm's expected production of flue-cured tobacco is less than 80 percent of the farm's effective marketing quota as a result of a natural disaster condition.

"(2) Any lease and transfer of quota under this paragraph may be made to any other farm within the same State in accordance with regulations issued by the Secretary.".

(b) PERIODIC ADJUSTMENT OF YIELD FACTOR FOR [2] FLUE-CURED TOBACCO ACREAGE-POUNDAGE QUOTAS.—Section 317(a) of such Act (7 U.S.C. 1314c(a)) is amended by striking out "and at five year intervals thereafter" each place it appears in paragraphs (2), (4), and (6)(A).

(c) IMPROVED TOBACCO FIELD MEASUREMENT.—It is the sense of Congress that the Secretary of Agriculture should review current compliance procedures for acreage or poundage quotas with respect to cigar and dark-air and fire-cured tobaccos under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) to determine means of improving such procedures. The Secretary shall recommend to Congress changes in existing law that would be necessary to implement any such improvements.

SEC. 1113. HAYING AND GRAZING.

(a) WHEAT.—Effective only for the 1988 through 1990 crops of wheat, section 107D of the Agricultural Act of 1949 (7 U.S.C. 1445b-3) is amended—

(1) in subsection (c)(1)(K)—

(A) in clause (i)—

(i) by striking out "(i)"; and

(ii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(B) by striking out clause (ii);

(2) in subsection (f)(4)—

(A) in subparagraph (B)—

(i) by striking out "Subject to subparagraph (C), the" and inserting in lieu thereof "The"; and

(ii) by striking out "hay and grazing,"; and

(B) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C)(i) Except as provided in clauses (ii) and (iii), haying and grazing of acreage designated as conservation use acreage for the purpose of meeting any requirements established under an acreage limitation program (including a program conducted under subsection (c)(1)(C)), set-aside program, or land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. Such 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.

"(iii) Haying and grazing shall not be permitted for any crop under clause (i) if the Secretary determines that haying and grazing would have an adverse economic effect.". 101 STAT. 1330-9

(b) FEED GRAINS.—Effective only for the 1988 through 1990 crops of feed grains, section 105C of such Act (7 U.S.C. 1445b-3) is amended— 7 USC 1444e.

(1) in subsection (c)(1)(I)—

(A) in clause (i)—

(i) by striking out "(i)"; and

(ii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(B) by striking out clause (ii);

(2) in subsection (f)(4)—

(A) in subparagraph (B)—

(i) by striking out "Subject to subparagraph (C), the" and inserting in lieu thereof "The"; and

[2] Copy read "FOR".

(ii) by striking out "hay and grazing,"; and

(B) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C)(i) Except as provided in clauses (ii) and (iii), haying and grazing of acreage designated as conservation use acreage for the purpose of meeting any requirements established under an acreage limitation program (including a program conducted under subsection (c)(1)(B)), set-aside program, or land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. Such 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.

"(iii) Haying and grazing shall not be permitted for any crop under clause (i) if the Secretary determines that haying and grazing would have an adverse economic effect.".

(c) COTTON.—Effective only for the 1988 through 1990 crops of upland cotton, section 103A of such Act (7 U.S.C. 1444-1) is amended—

(1) in subsection (c)(1)(G)—

(A) in clause (i)—

(i) by striking out "(i)"; and

(ii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(B) by striking out clause (ii);

(2) in subsection (f)(3)—

(A) in subparagraph (B)—

(i) by striking out "Subject to subparagraph (C), the" and inserting in lieu thereof "The"; and

(ii) by striking out "hay and grazing,"; and

(B) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C)(i) Except as provided in clauses (ii) and (iii), haying and grazing of acreage designated as conservation use acreage for the purpose of meeting any requirements established under an acreage limitation program (including a program conducted under subsection (c)(1)(C)), set-aside program, or land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and
101 STAT. 1330-10 Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. Such 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.

"(iii) Haying and grazing shall not be permitted for any crop under clause (i) if the Secretary determines that haying and grazing would have an adverse economic effect.".

(d) RICE.—Effective only for the 1988 through 1990 crops of rice, section 101A of such Act (7 U.S.C. 1441-1) is amended—

(1) in subsection (c)(1)(G)—

(A) in clause (i)—

(i) by striking out "(i)"; and

(ii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(B) by striking out clause (ii);

(2) in subsection (f)(3)—

(A) in subparagraph (B)—

(i) by striking out "Subject to subparagraph (C), the" and inserting in lieu thereof "The"; and

(ii) by striking out "hay and grazing,"; and

(B) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C)(i) Except as provided in clauses (ii) and (iii), haying and grazing of acreage designated as conservation use acreage for the purpose of meeting any requirements established under an acreage limitation program (including a program conducted under subsection (c)(1)(B)), set-aside program, or land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. Such 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.

"(iii) Haying and grazing shall not be permitted for any crop under clause (i) if the Secretary determines that haying and grazing would have an adverse economic effect.".

Subtitle B—Optional Acreage Diversion

SEC. 1201. WHEAT OPTIONAL ACREAGE DIVERSION PROGRAM.

Effective only for the 1988 through 1990 crops of wheat, section 107D(c)(1)(C) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(C)) is amended—

(1) in clause (i)(II), by striking out ", subject to the compliance of the producers with clause (ii)";

(2) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following new clauses.

"(ii) Notwithstanding any other provision of this section, any producer who elects to devote all or a portion of the permitted wheat acreage of the farm to conservation uses (or other uses as provided in subparagraph (K)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to wheat and eligible for payments under this subparagraph for such crop at a per-bushel rate established by the Secretary, except that such rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. Such projected payment rate for the crop shall be announced by the Secretary prior to the period during which wheat producers may agree to participate in the program for such crop. 101 STAT. 1330-11

"(iii) The Secretary shall implement this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph, the Secretary is authorized to restrict the total amount of wheat acreage that may be taken out of production under this subparagraph, taking into consideration the total amount of wheat acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the amount of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed in the case of a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of a disaster that occurred during such crop year."; and

(3) in clause (iv)—

(A) by inserting "(or all)" after "such portion"; and

(B) by inserting "under this subparagraph" after "subparagraph (K))".

SEC. 1202. FEED GRAINS OPTIONAL ACREAGE DIVERSION PROGRAM.

Effective only for the 1988 through 1990 crops of feed grains, section 105C(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1444e(c)(1)(B)) is amended—

(1) in clause (i)(II), by striking out ", subject to the compliance of the producers with clause (ii)";

(2) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following new clauses:

"(ii) Notwithstanding any other provision of this section, any producer who elects to devote all or a portion of the permitted feed grain acreage of the farm to conservation uses (or other uses as provided in subparagraph (I)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to feed grains and eligible for payments under this subparagraph for such crop at a per-bushel rate established by the Secretary, except that such rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. Such projected payment rate for the crop shall be announced by the Secretary prior to the period during which feed grain producers may agree to participate in the program for such crop.

"(iii) The Secretary shall implement this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph, the Secretary is authorized to restrict the total amount of feed grain acreage that may be taken out of production under this subparagraph, taking into consideration the total amount of feed grain acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the amount of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed
101 STAT. 1330-12 in the case of a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of a disaster that occurred during such crop year."; and

(3) in clause (iv)—

(A) by inserting "(or all)" after "such portion"; and

(B) by inserting "under this subparagraph" after "subparagraph (I))".

7 USC 1444e note.

SEC. 1203. REGULATIONS.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations implementing the amendments made to sections 107D(c)(1)(C) and 105C(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(C) and 1444e(c)(1)(B)) by sections 1201 and 1202, respectively.

(b) NONREDUCTION OF BASES AND YIELDS.—Such regulations shall include provisions that ensure that the wheat or feed grain crop acreage base and farm program payment yield for any farm will not be reduced if the producers on the farm set aside from production all, or a portion, of the producer's permitted acreage under the acreage diversion program under section 107D(c)(1)(C) or 105C(c)(1)(B) as amended by section 1201 or 1202, respectively.

(c) EFFECT ON LANDLORD-TENANT RELATIONS.—Such regulations shall ensure, to the maximum extent practicable, that the programs authorized under this subtitle will not adversely affect the relationships between landlords and tenants, regarding any crop acreage base entered into such programs, in existence on the date of enactment of this Act.

Subtitle C—Farm Program Payments

SEC. 1301. PREVENTION OF THE CREATION OF ENTITIES TO QUALIFY AS SEPARATE PERSONS.

(a) IN GENERAL.—Effective beginning with the 1989 crops, the Food Security Act of 1985 is amended—

(1) in section 1001(1) (7 U.S.C. 1308), by striking out "For each" and inserting in lieu thereof "Subject to sections 1001A through 1001C, for each";

(2) in section 1001(2)—

(A) in subparagraph (A), by striking out "For each" and inserting in lieu thereof "Subject to sections 1001A through 1001C, for each"; and

(B) in subparagraph (C), by striking out "The total" and inserting in lieu thereof "Subject to sections 1001A through 1001C, the total"; and

(3) by inserting after section 1001 the following new section:

"SEC. 1001A. PREVENTION OF CREATION OF ENTITIES TO QUALIFY AS SEPARATE PERSONS; PAYMENTS LIMITED TO ACTIVE FARMERS. 7 USC 1308-1.

"(a) PREVENTION OF CREATION OF ENTITIES TO QUALIFY AS SEPARATE PERSONS.—For the purposes of preventing the use of multiple legal entities to avoid the effective application of the payment limitations under section 1001:

"(1) IN GENERAL.—A person (as defined in section 1001(5)(B)(i)) that receives farm program payments (as described in paragraphs (1) and (2) of this section as being subject to limitation) for a crop year under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) may not also hold, directly or indirectly, substantial beneficial interests in more than two entities (as defined in section 1001(5)(B)(i)(II)) engaged in farm operations that also receive such payments as separate persons, for the purposes of the application of the limitations under section 1001. A person that does not receive such payments for a crop year may not hold, directly or indirectly, substantial beneficial interests in more than three entities that receive such payments as separate persons, for the purposes of the application of the limitations under section 1001. 101 STAT. 1330-13

"(2) MINIMAL BENEFICIAL INTERESTS.—For the purpose of this subsection, a beneficial interest in any entity that is less than 10 percent of all beneficial interests in such entity combined shall not be considered a substantial beneficial interest, unless the Secretary determines, on a case-by-case basis, that a smaller percentage should apply to one or more beneficial interests to ensure that the purpose of this subsection is achieved.

"(3) NOTIFICATION BY ENTITIES.—To facilitate administration of this subsection, each entity receiving such payments as a separate person shall notify each individual or other entity that acquires or holds a substantial beneficial interest in it of the requirements and limitations under this subsection. Each such entity receiving payments shall provide to the Secretary of Agriculture, at such times and in such manner as prescribed by the Secretary, the name and social security number of each individual, or the name and taxpayer identification number of each entity, that holds or acquires a substantial beneficial interest.

"(4) NOTIFICATION OF INTEREST.—

"(A) IN GENERAL.—If a person is notified that the person holds substantial beneficial interests in more than the number of entities receiving payments that is permitted under this subsection for the purposes of the application of the limitations under section 1001, the person immediately shall notify the Secretary, designating those entities that should be considered as permitted entities for the person for purposes of applying the limitations. Each remaining entity in which the person holds a substantial beneficial interest shall be subject to reductions in the payments to the entity subject to limitation under section 1001 in accordance with this subparagraph. Each such payment applicable to the entity shall be reduced by an amount that bears the same relation to the full payment that the person's beneficial interest in the entity bears to all beneficial interests in the entity combined. Before making such reductions, the Sec-

retary shall notify all individuals or entities affected thereby and permit them to adjust among themselves their interests in the designated entity or entities.

"(B) NOTICE NOT PROVIDED.—If the person does not so notify the Secretary, all entities in which the person holds substantial beneficial interests shall be subject to reductions in the per person limitations under section 1001 in the manner described in subparagraph (A). Before making such reductions, the Secretary shall notify all individuals or entities affected thereby and permit them to adjust among themselves their interests in the designated entity or entities.".

SEC. 1302. PAYMENTS LIMITED TO ACTIVE FARMERS.

Effective beginning with the 1989 crops, section 1001A of the Food Security Act of 1985, as added by section 1301, is amended by adding at the end the following:

"(b) PAYMENTS LIMITED TO ACTIVE FARMERS.—

"(1) IN GENERAL.—To be separately eligible for farm program payments (as described in paragraphs (1) and (2) of section 1001 as being subject to limitation) under the Agricultural Act of 1949 with respect to a particular farming operation (whether in the person's own right or as a partner in a general partnership, a grantor of a revocable trust, a participant in a joint venture, or a participant in a similar entity (as determined by the Secretary) that is the producer of the crops involved), a person must be an individual or entity described in section 1001(5)(B)(i) and actively engaged in farming with respect to such operation, as provided under paragraphs (2), (3), and (4).

"(2) GENERAL CLASSES ACTIVELY ENGAGED IN FARMING.[3]—For the purposes of paragraph (1), except as otherwise provided in paragraph (3):

"(A) INDIVIDUALS.—An individual shall be considered to be actively engaged in farming with respect to a farm operation if—

"(i) the individual makes a significant contribution (based on the total value of the farming operation) of—

"(I) capital, equipment, or land; and

"(II) personal labor or active personal management;

to the farming operation; and

"(ii) the individual's share of the profits or losses from the farming operation is commensurate with the individual's contributions to the operation; and

"(iii) the individual's contributions are at risk.

"(B) CORPORATIONS OR OTHER ENTITIES.—A corporation or other entity described in section 1001(5)(B)(i)(II) shall be considered as actively engaged in farming with respect to a farming operation if—

"(i) the entity separately makes a significant contribution (based on the total value of the farming operation) of capital, equipment, or land;

"(ii) the stockholders or members collectively make a significant contribution of personal labor or active personal management to the operation; and

"(iii) the standards provided in clauses (ii) and (iii) of paragraph (A), as applied to the entity, are met by the entity.

"(C) ENTITIES MAKING SIGNIFICANT CONTRIBUTIONS.—If a general partnership, joint venture, or similar entity (as determined by the Secretary) separately makes a significant contribution (based on the total value of the farming operation involved) of capital, equipment, or land, and the standards provided in clauses (ii) and (iii) of paragraph (A), as applied to the entity, are met by the entity, the partners

[3] Copy read "CLASSES ACTIVELY ENGAGED IN FARMING".

or members making a significant contribution of personal labor or active personal management shall be considered to be actively engaged in farming with respect to the farming operation involved. 101 STAT. 1330-15

"(D) EQUIPMENT AND PERSONAL LABOR.—In making determinations under this subsection regarding equipment and personal labor, the Secretary shall take into consideration the equipment and personal labor normally and customarily provided by farm operators in the area involved to produce program crops.

"(3) SPECIAL CLASSES ACTIVELY ENGAGED IN FARMING.—Notwithstanding paragraph (2), the following persons shall be considered to be actively engaged in farming with respect to a farm operation:

"(A) LANDOWNERS.—A person that is a landowner contributing the owned land to the farming operation if the landowner receives rent or income for such use of the land based on the land's production or the operation's operating results, and the person meets the standard provided in clauses (ii) and (iii) of paragraph (2)(A).

"(B) FAMILY MEMBERS.—With respect to a farming operation conducted by persons, a majority of whom are individuals who are family members, an adult family member who makes a significant contribution (based on the total value of the farming operation) of active personal management or personal labor and, with respect to such contribution, who meets the standards provided in clauses (ii) and (iii) of paragraph (2)(A). For the purposes of the preceding sentence, the term 'family member' means an individual to whom another family member in the farming operation is related as lineal ancestor, lineal descendant, or sibling (including the spouses of those family members who do not make a significant contribution themselves).

"(C) SHARECROPPERS.—A sharecropper who makes a significant contribution of personal labor to the farming operation and, with respect to such contribution, who meets the standards provided in clauses (ii) and (iii) of paragraph (2)(A).

"(4) PERSONS NOT ACTIVELY ENGAGED IN FARMING.—For the purposes of paragraph (1), except as provided in paragraph (3), the following persons shall not be considered to be actively engaged in farming with respect to a farm operation:

"(A) LANDLORDS.—A landlord contributing land to the farming operation if the landlord receives cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for such use of the land.

"(B) OTHER PERSONS.—Any other person, or class of persons, determined by the Secretary as failing to meet the standards set out in paragraphs (2) and (3).

"(5) CUSTOM FARMING SERVICES.—A person receiving custom farming services will be considered separately eligible for payment limitation purposes if such person is actively engaged in farming based on paragraphs (1) through (3). No other rules with respect to custom farming shall apply.". 101 STAT. 1330-16

SEC. 1303. DEFINITION OF PERSON; ELIGIBLE INDIVIDUALS AND ENTITIES; RESTRICTIONS APPLICABLE TO CASH-RENT TENANTS.

Effective beginning with the 1989 crops: 7 USC 1308 note.

(a) IN GENERAL.—Section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)) is amended—

(1) by inserting after the first sentence of subparagraph (A) the following new sentence: "Such regulations shall incorporate the provisions in subparagraphs (B) through (E) of this paragraph, paragraphs (6) and (7), and sections 1001A through 1001C."; Regulations.

(2) by striking out the second sentence of subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(B)(i) For the purposes of the regulations issued under subparagraph (A), subject to clause (ii), the term 'person' means—

"(I) an individual, including any individual participating in a farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar entity (as determined by the Secretary);

"(II) a corporation, joint stock company, association, limited partnership, charitable organization, or other similar entity (as determined by the Secretary), including any such entity or organization participating in the farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar entity (as determined by the Secretary); and

"(III) a State, political subdivision, or agency thereof.

"(ii)(I) Such regulations shall provide that the term 'person' does not include any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers.

"(II) In defining the term 'person' as it will apply to irrevocable trusts and estates, the Secretary shall ensure that fair and equitable treatment is given to trusts and estates and the beneficiaries thereof.

"(iii) Such regulations shall provide that, with respect to any married couple, the husband and wife shall be considered to be one person, except that any married couple consisting of spouses who, prior to their marriage, were separately engaged in unrelated farming operations, each spouse shall be treated as a separate person with respect to the farming operation brought into the marriage by such spouse so long as such operation remains as a separate farming operation, for the purposes of the application of the limitations under this section.";

(3) by redesignating subparagraph (B) as subparagraph (C); and

(4) by adding at the end thereof the following new subparagraphs:

"(D) Any person that conducts a farming operation to produce a crop subject to limitations under this section as a tenant that rents the land for cash (or a crop share guaranteed as to the amount of the commodity to be paid in rent) and that makes a significant contribution of active personal management but not of personal labor shall be considered the same person as the landlord unless the tenant makes a significant contribution of equipment used in the farming operation.

101 STAT. 1330-17

"(E) The Secretary may not approve (for purposes of the application of the limitations under this section) any change in a farming operation that otherwise will increase the number of persons to which the limitations under this section are applied unless the Secretary determines that the change is bona fide and substantive. In the implementation of the preceding sentence, the addition of a family member to a farming operation under the criteria set out in section 1001A(b)(1)(B) shall be considered a bona fide and substantive change in the farming operation.".

(b) LANDS OWNED BY STATES, POLITICAL SUBDIVISIONS, AND PUBLIC SCHOOLS.—Paragraph (6) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308(6)) is amended to read as follows:

"(6) The provisions of this section that limit payments to any person shall not be applicable to land owned by a public school district or land owned by a State that is used to maintain a public school.".

SEC. 1304. MORE EFFECTIVE AND UNIFORM APPLICATION OF PAYMENT LIMITATIONS.

7 USC 1308 note.

(a) EDUCATION PROGRAM.

(1) IN GENERAL.—The Secretary of Agriculture shall implement a payment provisions education program for appropriate personnel of the Department of Agriculture and members and other personnel of local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), for the purpose of fostering more effective and uniform application of the payment limitations and restrictions under sections 1001 through 1001C of the Food Security Act of 1985.

(2) TRAINING.—The education program shall provide training to such personnel in the fair, accurate, and uniform application to individual farming operations of the provisions of law and regulation relating to the payment provisions of sections 1001 through 1001C of the Food Security Act of 1985. Particular emphasis shall be given to the changes in the law made by sections 1301, 1302, and 1303 of this Act.

(3) IMPLEMENTATION.—The education program shall be fully implemented, and the training completed, not later than 30 days after the date final regulations are issued to carry out the amendments made by this subtitle.

(4) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program provided under this subsection through the Commodity Credit Corporation.

(b) SCHEMES OR DEVICES.—Effective beginning with the 1989 crops, the Food Security Act of 1985 is amended by inserting after section 1001A, as added by sections 1301 and 1302 of this Act, the following new section:

"SEC. 1001B. SCHEMES OR DEVICES.

7 USC 1308-2.

"If the Secretary of Agriculture determines that any person has adopted a scheme or device to evade, or that has the purpose of evading, section 1001, 1001A, or 1001C, such person shall be ineligible to receive farm program payments (as described in paragraphs (1) and (2) of section 1001 as being subject to limitation) applicable to the crop year for which such scheme or device was adopted and the succeeding crop year.".

101 STAT. 1330-18

SEC. 1305. REGULATIONS; TRANSITION RULES; EQUITABLE ADJUSTMENTS.

7 USC 1308 note.

(a) REGULATIONS.—

(1) ISSUANCE.—The Secretary of Agriculture shall issue—

(A) proposed regulations to carry out the amendments made by this subtitle not later than April 1, 1988; and

(B) final regulations to carry out such amendments not later than August 1, 1988.

(2) FIELD INSTRUCTIONS.—Any field instructions relating to, or other supplemental clarifications of, the regulations issued under sections 1001 through 1001C of the Food Security Act of 1985 shall not be used in resolving issues involved in the application of the payment limitations or restrictions under such sections or regulations to individuals, other entities, or farming operations until copies of the publication are made available to the public.

(b) ALLOWANCE FOR EQUITABLE REORGANIZATIONS.—To allow for the equitable reorganization of farming operations to conform to the limitations and restrictions contained in the amendments made to the Food Security Act of 1985 by this subtitle in cases in which the application of such limitations and restrictions will reduce payments to the farming operation (as determined by the Secretary), the Secretary may waive the application of the substantive change rule under section 1001(5)(E), as added by section 1303 of this Act, or

any regulation of the Secretary containing a comparable rule, to any reorganization applied for prior to the final date when producers are eligible to enter into contracts to participate in the commodity programs established for the 1989 crop year, to the extent the Secretary determines appropriate to facilitate any such equitable reorganizations that does not increase such payments.

(c) GOOD FAITH RELIANCE ON OFFICIAL ADVICE.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by adding at the end thereof the following new paragraph:

"(7) Regulations of the Secretary shall establish time limits for the various steps involved with notice, hearing, decision, and the appeals procedure in order to ensure expeditious handling and settlement of payment limitation disputes. Notwithstanding any other provision of law, actions taken by an individual or other entity in good faith on action or advice of an authorized representative of the Secretary may be accepted as meeting the requirement under this section or section 1001A, to the extent the Secretary deems it desirable in order to provide fair and equitable treatment.".

Contracts.
7 USC 1308 note.

(d) CONSERVATION RESERVE APPLICATION.—Notwithstanding section 1234(f)(2) of the Food Security Act of 1985 (16 U.S.C. 3834(f)), paragraphs (5) through (7) of section 1001, as amended by this subtitle, and sections 1001A through 1001C, of the Food Security Act of 1985 shall apply to the conservation reserve program under subtitle D of title XII of such Act (16 U.S.C. 3831 et seq.) with respect to rental payments to persons under contracts entered into after the date of the enactment of this Act, except with respect to landlords that receive cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for the use of the land.

101 STAT. 1330–19

SEC. 1306. FOREIGN PERSONS MADE INELIGIBLE FOR PROGRAM BENEFITS.

Effective beginning with the 1989 crops, the Food Security Act of 1985 is amended by inserting after section 1001B, as added by section 1304 of this Act, the following new section:

7 USC 1308-3.

"SEC. 1001C. FOREIGN PERSONS MADE INELIGIBLE FOR PROGRAM BENEFITS.

"Notwithstanding any other provision of law:

"(a) IN GENERAL.—For each of the 1989 and 1990 crops, any person who is not a citizen of the United States or an alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) shall be ineligible to receive any type of production adjustment payments, price support program loans, payments, or benefits made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) with respect to any commodity produced, or land set aside from production, on a farm that is owned or operated by such person, unless such person is an individual who is providing land, capital, and a substantial amount of personal labor in the production of crops on such farm.

"(b) CORPORATIONS OR OTHER ENTITIES.—For purposes of subsection (a), a corporation or other entity shall be considered a person that is ineligible for production adjustment payments, price support program loans, payments, or benefits if more than 10 percent of the beneficial ownership of the entity is held by persons who are not citizens of the United States or aliens lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act, unless such persons provide a substantial amount of personal labor in the production of crops on such farm. Notwithstanding the foregoing provisions of this subsection, with respect to an entity that is determined to be ineligible to receive such pay-

ments, loans, or other benefits, the Secretary may make payments, loans, and other benefits in an amount determined by the Secretary to be representative of the percentage interests of the entity that is owned by citizens of the United States and aliens lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act.

"(c) PROSPECTIVE APPLICATION.—No person shall become ineligible under this section for production adjustment payments, price support program loans, payments or benefits as the result of the production of a crop of an agricultural commodity planted, or commodity program or conservation reserve contract entered into, before the date of the enactment of this section.". Contracts.

SEC. 1307. HONEY LOAN LIMITATION.

Section 1001(2)(C) of the Food Security Act of 1985 (7 U.S.C. 1308(2)(C)) is amended—

(1) by striking out clause (i); and

(2) in clause (ii), by striking out "(ii)".

101 STAT. 1330-20

Subtitle D—Rural Electrification Administration Programs

CHAPTER 1—PREPAYMENT OF RURAL ELECTRIFICATION LOANS

SEC. 1401. PREPAYMENT OF LOANS. 7 USC 936a note.

(a) ELIGIBILITY TO PREPAY.—Notwithstanding subsections (c), (d), and (e) of section 306A of the Rural Electrification Act of 1936 (7 U.S.C. 936a (c), (d), and (e)), during fiscal year 1988, a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the borrower, prepay such loan (or any loan advance thereunder) in accordance with subsections (a) and (b) of section 306A of such Act, except that any prepayment that would cause the total amount of such prepayments during fiscal year 1988 to exceed $2,000,000,000 shall be subject solely to the approval of the Secretary of the Treasury.

(b) PRIORITY FOR APPROVAL.—In determining which borrowers shall be permitted to prepay loans under subsection (a):

(1) The Administrator of the Rural Electrification Administration shall give priority to those 8 borrowers that were determined by the Administrator, prior to the date of the enactment of this Act, to be eligible to prepay, or that prepaid, an advance under section 306A of such Act (as in effect prior to the date of the enactment of this Act), except that to retain such priority a borrower shall—

(A) notify the Administrator in writing, within 30 days after the issuance of regulations to carry out this section, of the intent of the borrower to prepay; and Regulations.

(B) complete such prepayment by disbursing funds to the Federal Financing Bank to prepay loan advances within 120 days after the issuance of such regulations.

(2) In considering requests for prepayment under subsection (a) by borrowers not described in paragraph (1), the Administrator shall permit prepayment based on the order in which borrowers are prepared to disburse funds to the Federal Financing Bank to complete such prepayments. If more than 1 borrower is so prepared at the same time, and if the combined amount of such prepayments would cause the total amount of prepayments during fiscal year 1988, under this section, to exceed $2,000,000,000, the Administrator shall—

(A) base the determination on the date on which prepayment applications have been submitted; or

(B) permit partial prepayment by two or more borrowers.

(c) REGULATIONS.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Rural Electrification Administration shall issue such regulations as are necessary to carry at this section.

(d) STUDY.—Not later than January 1, 1989, the Comptroller General of the United States shall—

(1) study—

(A) all benefits provided by Federal Financing Bank lending and the procedures and conditions for the prepayment of current Federal Financing Bank loans;

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(B) the benefits and costs to Federal Financing Bank borrowers of making prepayments; and

(C) alternative conditions and procedures for prepayment of all Federal Financing Bank loans to balance Federal benefits with Federal costs; and

Reports.

(2) submit to Congress a report describing the results of such study, together with any appropriate recommendations.

SEC. 1402. USE OF FUNDS.

The Rural Electrification Act of 1936 is amended by inserting after section 311 (7 U.S.C. 940a) the following new section:

7 USC 940b.

"SEC. 312. USE OF FUNDS.

"A borrower of an insured or guaranteed electric loan under this Act may, without restriction or prior approval of the Administrator, invest its own funds or make loans or guarantees, not in excess of 15 percent of its total utility plant.".

SEC. 1403. CUSHION OF CREDIT PAYMENTS PROGRAM.

Title III of the Rural Electrification Act of 1936 (as amended by section 1402 of this Act) is amended by adding at the end thereof the following new section:

7 USC 940c.

"SEC. 313. CUSHION OF CREDIT PAYMENTS PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Administrator shall develop and promote a program to encourage borrowers to voluntarily make deposits into cushion of credit accounts established within the Rural Electrification and Telephone Revolving Fund.

"(2) INTEREST.—Amounts in each cushion of credit account shall accrue interest to the borrower at a rate of 5 percent per annum.

"(3) BALANCE.—A borrower may reduce the balance of its cushion of credit account only if the amount obtained from the reduction is used to make scheduled payments on loans made or guaranteed under this Act.

"(b) USES OF CUSHION OF CREDIT PAYMENTS.—

"(1) IN GENERAL.—

"(A) CASH BALANCE.—Cushion of credit payments shall be held in the Rural Electrification and Telephone Revolving Fund as a cash balance in the cushion of credit accounts of borrowers.

"(B) INTEREST.—All cash balance amounts (obtained from cushion of credit payments, loan payments, and other sources) held by the Fund shall bear interest to the Fund at a rate equal to the weighted average rate on outstanding certificates of beneficial ownership issued by the Fund.

"(C) CREDITS.—The amount of interest accrued on the cash balances shall be credited to the Fund as an offsetting reduction to the amount of interest paid by the Fund on its certificates of beneficial ownership.

"(2) RURAL ECONOMIC DEVELOPMENT SUBACCOUNT.—

"(A) MAINTENANCE OF ACCOUNT.—The Administrator shall maintain a subaccount within the Rural Electrifica-

tion and Telephone Revolving Fund to which shall be credited, on a monthly basis, a sum determined by multiplying the outstanding cushion of credit payments made after October 1, 1987, by the difference (converted to a monthly basis) between the average weighted interest rate paid on outstanding certificates of beneficial ownership issued by the Fund and the 5 percent rate of interest provided to borrowers on cushion of credit payments. 101 STAT. 1330-22

"(B) GRANTS.—The Administrator is authorized, from the interest differential sums credited this subaccount and from any other funds made available thereto, to provide grants or zero interest loans to borrowers under this Act for the purpose of promoting rural economic development and job creation projects, including funding for project feasibility studies, start-up costs, incubator projects, and other reasonable expenses for the purpose of fostering rural development.

"(C) REPAYMENTS.—In the case of zero interest loans, the Administrator shall establish such reasonable repayment terms as will ensure borrower participation.

"(D) PROCEEDS.—All proceeds from the repayment of such loans shall be returned to the subaccount.

"(E) NUMBER OF GRANTS.—Such loans and grants shall be made during each fiscal year to the full extent of the amounts held by the rural economic development subaccount, subject only to limitations as may be from time-to-time imposed by law.".

CHAPTER 2—RURAL TELEPHONE BANK BORROWERS

SEC. 1411. RURAL TELEPHONE BANK INTEREST RATES AND LOAN PREPAYMENTS.

(a) FINDINGS.—Congress finds that— 7 USC 948 note.

(1) overcharging of Rural Telephone Bank borrowers has resulted in $179,000,000 in excess profits and has imperiled borrowers by raising costs to ratepayers;

(2) borrowers will be able to seek redress under section 408(b)(3)(G) of the Rural Electrification Act of 1936, as added by subsection (c), or may leave the Rural Telephone Bank, but in no case may the Governor of the Bank issue regulations requiring any penalty from borrowers seeking to retire debt prior to maturity; and

(3) any reduction in Federal Government [4] expenditures in the operation of the Rural Telephone Bank, from borrowers' conduct resulting from the implementation of the amendments made by subsections (b) and (c), should be included in all calculations of the budget of the United States Government, authorized under the [4a] Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987.

(b) RURAL TELEPHONE BANK LOAN PREPAYMENTS.— [5]

(1) PREPAYMENTS AUTHORIZED.—Section 408(b) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)) is amended by adding at the end the following new paragraph:

"(8) A borrower with a loan from the Rural Telephone Bank may prepay such loan (or any part thereof) by paying the face amount thereof without being required to pay the prepayment penalty set forth in the note covering such loan, if such prepayment is not made later than September 30, 1988.". 101 STAT. 1330-23

(2) PREPAYMENT REGULATIONS.—The Governor of the Rural Telephone Bank shall issue regulations to carry out the amendment made by paragraph (1) within 30 days after the date of 7 USC 948 note.

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[4] Copy read "government".
[4a] Copy read "under of the".
[5] Copy read "PREPAYMENTS.".

enactment of this Act. Such regulations shall implement the amendment made by paragraph (1) without the addition of any restrictions not set forth in such amendment.

(c) DETERMINATION OF INTEREST RATES ON RURAL TELEPHONE BANK LOANS.—Paragraph (3) of section 408(b) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)(3)) is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) On and after the date of the enactment of this paragraph, advances made on or after such date of enactment under loan commitments made on or after October 1, 1987, shall bear interest at the rate determined under subparagraph (C), but in no event at a rate that is less than 5 percent per annum.

"(C) The rate determined under this subparagraph shall be—

"(i) for the period beginning on the date the advance is made and ending at the close of the fiscal year in which the advance is made, the average yield (on the date of the advance) on outstanding marketable obligations of the United States having a final maturity comparable to the final maturity of the advance; and

"(ii) after the fiscal year in which the advance is made, the cost of money rate for such fiscal year, as determined under subparagraph (D).

"(D) Within 30 days after the end of each fiscal year, the Governor shall determine to the nearest 0.01 percent the cost of money rate for the fiscal year, by calculating the sum of the results of the following calculations:

"(i) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class A stock, multiplied by the rate of return payable by the telephone bank during the fiscal year, as specified in section 406(c), to holders of class A stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

"(ii) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class B stock, multiplied by the rate at which dividends are payable by the telephone bank during the fiscal year, as specified in section 406(d), to holders of class B stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

"(iii) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class C stock, multiplied by the rate at which dividends are payable by the telephone bank during the fiscal year, under section 406(e), to holders of class C stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

"(iv)(I) The sum of the results of the calculations described in subclause (II).

101 STAT. 1330-24

"(II) The amounts received by the telephone bank during the fiscal year from each issue of telephone debentures and other obligations of the telephone bank, multiplied, respectively, by the rates at which interest is payable during the fiscal year by the telephone bank to holders of each issue, each of which products is divided, respectively, by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

"(v)(I) The amount by which the aggregate of the amounts advanced by the telephone bank during the fiscal year exceeds the aggregate of the amounts received by the telephone bank from the issuance of class A stock, class B stock, class C stock, and telephone debentures and other obligations of the telephone bank during the fiscal year,

multiplied by the historic cost of money rate as of the close of the fiscal year immediately preceding the fiscal year, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

"(II) For purposes of this clause, the term 'historic cost of money rate', with respect to the close of a preceding fiscal year, means the sum of the results of the following calculations: The amounts advanced by the telephone bank in each fiscal year during the period beginning with fiscal year 1974 and ending with the preceding fiscal year, multiplied, respectively, by the cost of money rate for the fiscal year (as set forth in the table in subparagraph (E)) for fiscal years 1974 through 1987, and as determined by the Governor under this subparagraph for fiscal years after fiscal year 1987), each of which products is divided, respectively, by the aggregate of the amounts advanced by the telephone bank during the period.

"(E) For purposes of subparagraph (D)(II), the cost of money rate for the fiscal years in which each advance was made shall be as set forth in the following table:

"For advances made in—	The cost of money rate shall be—
Fiscal year 1974	5.01 percent
Fiscal year 1975	5.85 percent
Fiscal year 1976	5.33 percent
Fiscal year 1977	5.00 percent
Fiscal year 1978	5.87 percent
Fiscal year 1979	5.93 percent
Fiscal year 1980	8.10 percent
Fiscal year 1981	9.46 percent
Fiscal year 1982	8.39 percent
Fiscal year 1983	6.99 percent
Fiscal year 1984	6.55 percent
Fiscal year 1985	5.00 percent
Fiscal year 1986	5.00 percent
Fiscal year 1987	5.00 percent.

For purposes of this subparagraph, the term 'fiscal year' means the 12-month period ending on September 30 of the designated year.

"(F)(i) Notwithstanding subparagraph (B), if a borrower holds a commitment for a loan under this section made on or after October 1, 1987, and before the date of the enactment of this paragraph, part or all of the proceeds of which have not been advanced as of such date of enactment, the borrower may, until the later of the date the next advance under the loan commit- 101 STAT. 1330-25
ment is made or 90 days after such date of enactment, elect to have the interest rate specified in the loan commitment apply to the unadvanced portion of the loan in lieu of the rate which (but for this clause) would apply to the unadvanced portion under this paragraph. If any borrower makes an election under this clause with respect to a loan, the Governor shall adjust the interest rate which applies to the unadvanced portion of the loan accordingly.

"(ii)(I) If the telephone bank, pursuant to section 407(b), issues telephone debentures on any date to refinance telephone debentures or other obligations of the telephone bank, the telephone bank shall, in addition to any interest rate reduction required by any other provision of this paragraph, for the period applicable to the advance, reduce the interest rate charged on each advance made under this section during the fiscal year in which the refinanced debentures or other obligations were originally issued by the amount applicable to the advance.

"(II) For purposes of subclause (I), the term 'the period applicable to the advance' means the period beginning on the issue date described in subclause (I) and ending on the earlier of the date the advance matures or is completely prepaid.

"(III) For purposes of subclause (I), the term 'the amount applicable to the advance' means an amount which fully reflects

that percentage of the funds saved by the telephone bank as a result of the refinancing which is equal to the percentage representation of the advance in all advances described in subclause (I).

"(IV) Within 60 days after any issue date described in subclause (I), the Governor shall amend the loan documentation for each advance described in subclause (I), as necessary, to reflect any interest rate reduction applicable to the advance by reason of this clause, and shall notify each affected borrower of the reduction.

"(G) Within 30 days after the publication of any determination made under subparagraph (D), any affected borrower may obtain review of the determination, or any other equitable relief as may be determined appropriate, by the United States court of appeals for the judicial circuit in which the borrower does business by filing a written petition requesting the court to set aside or modify such determination. On receipt of such a petition, the clerk of the court shall transmit a copy of the petition to the Governor. On receipt of a copy of such a petition from the clerk of the court, the Governor shall file with the court the record on which the determination is based. The court shall have jurisdiction to affirm, set aside, or modify the determination.

"(H) Within 5 days after determining the cost of money rate for a fiscal year, the Governor shall—

Federal Register, publication.

"(i) cause the determination to be published in the Federal Register in accordance with section 552 of title 5, United States Code; and

"(ii) furnish a copy of the determination to the Comptroller General of the United States.

Reports.

"(I) The Comptroller General shall review, on an expedited basis, each determination a copy of which is received from the Governor and, within 15 days after the date of such receipt, furnish Congress a report on the accuracy of the determination.

101 STAT. 1330-26

"(J) The telephone bank shall not sell or otherwise dispose of any loan made under this section, except as provided in this paragraph.".

SEC. 1412. INTEREST RATE TO BE CONSIDERED FOR PURPOSES OF ASSESSING ELIGIBILITY FOR LOANS.

Paragraph (4) of section 408(b) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)(4)) is amended by inserting at the end the following: "For purposes of determining the creditworthiness of a borrower for a loan under this paragraph, the Governor shall assume that the loan, if made, would bear interest at a rate equal to the average yield (on the date of the determination) on outstanding marketable obligations of the United States having a final maturity comparable to the final maturity of the loan.".

SEC. 1413. ESTABLISHMENT OF RESERVE FOR LOSSES DUE TO INTEREST RATE FLUCTUATIONS.

(a) ESTABLISHMENT OF RESERVE; FUNDING.—Section 406 of the Rural Electrification Act of 1936 (7 U.S.C. 947) is amended by adding at the end the following:

7 USC 946.

"(h) There is hereby established in the telephone bank a reserve for losses due to interest rate fluctuations. Within 30 days after the date of the enactment of this subsection, the Governor of the telephone bank shall transfer to the reserve for losses due to interest rate fluctuations all amounts in the reserve for contingencies as of the date of the enactment of this subsection. Amounts in the reserve for interest rate fluctuations may be expended only to cover operating losses of the telephone bank (other than losses attributable to loan defaults) and only after taking into consideration any recommendations made by the General Accounting Office under section 1413(b) of the Rural Telephone Bank Borrowers Fairness Act of 1987.".

(b) STUDY BY GENERAL ACCOUNTING OFFICE.—Within 180 days after the date of the enactment of this Act, the General Accounting Office shall complete a study of operations of the telephone bank and report its recommendations to the Committees on Agriculture and Government Operations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate with respect to— Reports.

(1) the appropriate level of funding for the reserve for losses due to interest rate fluctuations established in section 406(h) of the Rural Electrification Act of 1936 (7 U.S.C. 947(h)) (as added by subsection (a));

(2) the circumstances under which amounts in the reserve for losses due to interest rate fluctuations should be expended;

(3) the circumstances under which amounts should be added to the reserve for losses due to interest rate fluctuations; and

(4) the disposition of excess reserves.

In such study, the General Accounting Office shall consider the effects of such recommendations on telephone bank borrowers, the subscribers of such borrowers, and the United States Government.

(c) LIMITATION ON ESTABLISHMENT OF NEW RESERVES.—Subsection (g) of section 406 of the Rural Electrification Act of 1936 (7 U.S.C. 947(g)) is amended— 7 USC 946.

(1) by striking out "reserves for losses," and inserting in lieu thereof "the reserve for loan losses,"; and

(2) by adding at the end the following: "The telephone bank may not establish any reserve other than the reserves referred to in this subsection and in subsection (h).".

101 STAT. 1330-27

SEC. 1414. PUBLICATION OF RURAL TELEPHONE BANK POLICIES AND REGULATIONS.

Federal Register, publication. Grants. Contracts. 7 USC 944a.

Notwithstanding the exemption contained in section 553(a)(2) of title 5, United States Code, the Governor of the telephone bank shall cause to be published in the Federal Register, in accordance with section 553 of title 5, United States Code, all rules, regulations, bulletins, and other written policy standards governing the operation of the telephone bank's programs relating to public property, loans, grants, benefits, or contracts. After September 30, 1988, the telephone bank may not deny a loan or advance to, or take any other adverse action against, any applicant or borrower for any reason which is based upon a rule, regulation, bulletin, or other written policy standard which has not been published pursuant to such section.

Subtitle E—Miscellaneous

SEC. 1501. MARKETING ORDER PENALTIES.

Section 8c(14) of the Agricultural Adjustment Act of 1933 (7 U.S.C. 608c(14)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) by inserting "(A)" before "Any"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order (other than a provision calling for payment of a pro rata share of expenses) may be assessed a civil penalty by the Secretary not exceeding $1,000 for each such violation. Each day during which such violation continues shall be deemed a separate violation, except that if the Secretary finds that a petition pursuant to paragraph (15) was filed and prosecuted by the handler in good faith and not for delay, no civil penalty may be assessed under this paragraph for such violations as occurred between the date on which the handler's petition was filed with the Secretary, and the date on which notice of the Secretary's ruling

thereon was given to the handler in accordance with regulations prescribed pursuant to paragraph (15). The Secretary may issue an order assessing a civil penalty under this paragraph only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable in the district courts of the United States in any district in which the handler subject to the order is an inhabitant, or has the handler's principal place of business. The validity of such order may not be reviewed in an action to collect such civil penalty.".

SEC. 1502. STUDY OF USE OF AGRICULTURAL COMMODITY FUTURES AND OPTIONS MARKETS.

The last sentence of section 1742 of the Food Security Act of 1985 (7 U.S.C. 1421 note) is amended by striking out "1988" and inserting in lieu thereof "1989".

101 STAT. 1330-28

SEC. 1503. AUTHORIZATION OF APPROPRIATIONS FOR PHILIPPINE FOOD AID INITIATIVE.

Section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) is amended by adding at the end thereof the following new paragraph:

"(12) There is authorized to be appropriated for fiscal year 1988, in addition to any other funds authorized to be appropriated, $1,000,000 for technical assistance for the sale or barter of commodities under paragraph (7) to strengthen nonprofit private organizations and cooperatives in the Philippines.".

SEC. 1504. RURAL INDUSTRIALIZATION ASSISTANCE.

Section 310B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)) is amended—

(1) by inserting "and private nonprofit corporations" after "public bodies"; and

(2) by striking out "to facilitate development of" and inserting in lieu thereof "to finance and facilitate development of small and emerging".

SEC. 1505. PLANT VARIETY PROTECTION FEES.

Section 31 of the Plant Variety Protection Act (7 U.S.C. 2371) is amended to read as follows:

"SEC. 31. PLANT VARIETY PROTECTION FEES.

"(a) IN GENERAL.—The Secretary shall, under such regulations as the Secretary may prescribe, charge and collect reasonable fees for services performed under this Act.

"(b) LATE PAYMENT PENALTY.—On failure to pay such fees, the Secretary shall assess a late payment penalty. Such overdue fees shall accrue interest as required by section 3717 of title 31, United States Code.

"(c) DISPOSITION OF FUNDS.—Such fees, late payment penalties, and accrued interest collected shall be credited to the account that incurs the cost and shall remain available without fiscal year limitation to pay the expenses incurred by the Secretary in carrying out this Act. Such funds collected (including late payment penalties and any interest earned) may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.

"(d) ACTIONS FOR NONPAYMENT.—The Attorney General may bring an action for the recovery of charges that have not been paid in accordance with this Act against any person obligated for payment of such charges under this Act in any United States district court or other United States court for any territory or possession in any jurisdiction in which the person is found, resides, or transacts business. The court shall have jurisdiction to hear and decide the action.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.".

SEC. 1506. ANNUAL APPROPRIATIONS TO REIMBURSE THE COMMODITY CREDIT CORPORATION FOR NET REALIZED LOSSES.

(a) IN GENERAL.—The first sentence of section 2 of Public Law 87-155 (15 U.S.C. 713a-11) is amended by striking out ", commencing with the fiscal year ending June 30, 1961" and inserting in lieu thereof "by means of a current, indefinite appropriation".

101 STAT. 1330-29

(b) OPERATING EXPENSES.—No funds may be appropriated for operating expenses of the Commodity Credit Corporation except as authorized under section 2 of Public Law 87-155 to reimburse the Corporation for net realized losses.

15 USC 713a-11 note.

(c) EFFECTIVE DATE.—This section and the amendment made by this section shall apply beginning with fiscal year 1988.

15 USC 713a-11 note.

SEC. 1507. FEDERAL CROP INSURANCE.

7 USC 1508 note.

It is the sense of Congress that, in carrying out the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation—

(1) should not be required to assume 100 percent of all loss adjustments in the Federal crop insurance program; and

(2) should assume and perform the loss adjustment obligations of a reinsured company if the Corporation determines that such company's loss adjustment performance and practices are not carried out in accordance with the applicable reinsurance agreement.

SEC. 1508. ETHANOL USAGE.

42 USC 7545 note.

(a) FINDINGS.—Congress finds that—

(1) the United States is dependent for a large and growing share of its energy needs on the Middle East at a time when world petroleum reserves are declining;

(2) the burning of gasoline causes pollution;

(3) ethanol can be blended with gasoline to produce a cleaner source of fuel;

(4) ethanol can be produced from grain, a renewable resource that is in considerable surplus in the United States;

(5) the conversion of grain into ethanol would reduce farm program costs and grain surpluses; and

(6) increasing the quantity of motor fuels that contain at least 10 percent ethanol from current levels to 50 percent by 1992 would create thousands of new jobs in ethanol production facilities.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Administrator of the Environmental Protection Agency should use authority provided under the Clean Air Act (42 U.S.C. 7401 et seq.) to require greater use of ethanol as motor fuel.

SEC. 1509. DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.

The Food Stamp Act of 1977 is amended by adding after section 20 (7 U.S.C. 2029) the following new section:

"SEC. 21. DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.

7 USC 2030.

"(a) IN GENERAL.—Upon written application of the State of Washington (in this section referred to as the 'State') and after the approval of such application by the Secretary, the State may conduct a Family Independence Demonstration Project (in this section referred to as the 'Project') in all or in part of the State in accordance with this section to determine whether the Project, as an alternative to providing benefits under the food stamp program, would more effectively break the cycle of poverty and would provide families with opportunities for economic independence and strengthened family functioning.

"(b) NATURE OF PROJECT.—In an application submitted under subsection (a), the State shall provide the following:

101 STAT. 1330-30

"(1) Except as provided in this section, the provisions of chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall apply to the operation of the Project.

"(2) All of the following terms and conditions shall be in effect under the Project:

"(A)(i) Except as provided in clause (ii), individuals with respect to whom benefits may be paid under part A of title IV of the Social Security Act, and such other individuals as are included in the Project pursuant to chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall be eligible to participate in the Project in lieu of receiving benefits under the food stamp program and cash assistance under any other Federal program covered by the Project.

"(ii) Individuals who receive only child care or medical benefits under the Project shall not be eligible to receive food assistance under the Project. Such individuals may receive coupons under the food stamp program if eligible.

"(B) Individuals who participate in the Project shall receive for each month an amount of cash assistance that is not less than the total value of the assistance such individuals would otherwise receive, in the aggregate, under the food stamp program and any cash-assistance Federal program covered by the Project for such month, including income and resource exclusions and deductions, and benefit levels.

"(C)(i) The State may provide a standard benefit for food assistance under the Project, except that individuals who participate in the Project shall receive as food assistance for a month an amount of cash that is not less than the value of the assistance such individuals would otherwise receive under the food stamp program.

"(ii) The State may provide a cash benefit for food assistance equal to the value of the thrifty food plan.

"(D) Each month participants in the Project shall be notified by the State of the amount of Project assistance that is provided as food assistance for such month.

"(E) The State shall have a program to require participants to engage in employment and training activities carried out under chapter 434 of the 1987 Washington Laws, as enacted in May 1987.[6]

"(F) Food assistance shall be provided under the Project—

"(i) to any individual who is accepted for participation in the Project, not later than 30 days after such individual applies to participate in the Project;

"(ii) to any participant for the period that begins on the date such participant applies to participate in the Project, except that the amount of such assistance shall be reduced to reflect the pro rata value of any coupons received under the food stamp program for such period for the benefit of such participant; and

"(iii) until—

101 STAT. 1330-31

"(I) the participant's cash assistance under the Project is terminated;

"(II) such participant is informed of such termination and is advised of the eligibility requirements for participation in the food stamp program;

"(III) the State determines whether such participant will be eligible to receive coupons as a member of a household under the food stamp program; and

[6] Copy read "May, 1987.".

"(IV) coupons under the food stamp program are received by such participant if such participant will be eligible to receive coupons as a member of a household under the food stamp program.

"(G)(i) [7] Paragraphs (1)(B), (8), (10), and (19) of section 11(e) shall apply with respect to the participants in the Project in the same manner as such paragraphs apply with respect to participants in the food stamp program.

"(ii) Each individual who contacts the State in person during office hours to make what may reasonably be interpreted as an oral or written request to participate in the Project shall receive and shall be permitted to file on the same day that such contact is first made, an application form to participate in the Project.

"(iii) The Project shall provide for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, the elderly persons, physically or mentally handicapped, and persons otherwise unable, solely because of transportation difficulties and similar hardships, to appear in person.

"(iv) An individual who applies to participate in the Project may be represented by another person in the review process if the other person has been clearly designated as the representative of such individual for that purpose, by such individual or the spouse of such individual, and, in the case of the review process, the representative is an adult who is sufficiently aware of relevant circumstances, except that the State may—

"(I) restrict the number of individuals who may be represented by such person; and

"(II) otherwise establish criteria and verification standards for representation under this clause.

"(v) The State shall provide a method for reviewing applications to participate in the Project submitted by, and distributing food assistance under the Project to, individuals who do not reside in permanent dwellings or who have no fixed mailing address. In carrying out the preceding sentence, the State shall take such steps as are necessary to ensure that participation in the Project is limited to eligible individuals.

"(3) An assurance that the State will allow any individual to apply to participate in the food stamp program without applying to participate in the Project.

"(4) An assurance that the cost of food assistance provided under the Project will not be such that the aggregate amount of payments made under this section by the Secretary to the State over the period of the Project will exceed the sum of— 101 STAT. 1330-32

"(A) the anticipated aggregate value of the coupons that would have been distributed under the food stamp program if the individuals who participate in the Project had participated instead in the food stamp program; and

"(B) the portion of the administrative costs for which the State would have received reimbursement under—

"(i) subsections (a) and (g) of section 16 (without regard to the first proviso to such subsection (g)) if the individuals who participated in the Project had participated instead in the food stamp program; and

"(ii) section 16(h) if the individuals who participated in the Project had participated in an employment and training program under section 6(d)(4);

except that this paragraph shall not be construed to prevent the State from claiming payments for additional households that would qualify for benefits under the food

[7] Copy read "(H)(i)".

stamp program in the absence of a cash out of such benefits as a result of changes in economic, demographic, and other conditions in the State or a subsequent change in the benefit levels approved by the State legislature.

"(5) An assurance that the State will continue to carry out the food stamp program while the State carries out the Project.

"(6) If there is a change in existing State law that would eliminate guaranteed benefits or reduce the rights of applicants or participants under this section during, or as a result of participation in, the Project, the Project shall be terminated.

"(7) An assurance that the Project shall include procedures and due process guarantees no less beneficial than those which are available under Federal law and under State law to participants in the food stamp program.

"(8)(A) An assurance that, except as provided in subparagraph (B), the State will carry out the Project during a 5-year period beginning on the date the first individual is approved for participation in the Project.

Termination date.

"(B) The Project may be terminated 180 days after—

"(i) the State gives notice to the Secretary that it intends to terminate the Project; or

"(ii) the Secretary, after notice and an opportunity for a hearing, determines that the State materially failed to comply with this section.

"(c) FUNDING.—If an application submitted under subsection (a) by the State complies with the requirements specified in subsection (b), then the Secretary shall—

"(1) approve such application; and

"(2) from funds appropriated under this Act, pay the State for—

"(A) the actual cost of the food assistance provided under the Project; and

"(B) the percentage of the administrative costs incurred by the State to provide food assistance under the Project that is equal to the percentage of the State's aggregate administrative costs incurred in operating the food stamp program in the most recent fiscal year for which data are available, that was paid under subsections (a), (g), and (h) of section 16 of this Act.

101 STAT. 1330–33

"(d)(1) PROJECT APPLICATION.—Unless and until an application to participate in the Project is approved, and food assistance under the Project is made available to the applicant—

"(A) such application shall also be treated as an application to participate in the food stamp program; and

"(B) section 11(e)(9) shall apply with respect to such application.

"(2) Coupons provided under the food stamp program with respect to an individual who—

"(A) is participating in such program; and

"(B) applies to participate in the Project;

may not be reduced or terminated because such individual applies to participate in the Project.

"(3) For purposes of the food stamp program, individuals who participate in the Project shall not be considered to be members of a household during the period of such participation.

"(e) WAIVER.—The Secretary shall (with respect to the Project) waive compliance with any requirement contained in this Act (other than this section) that (if applied) would prevent the State from carrying out the Project or effectively achieving its purpose.

"(f) CONSTRUCTION.—For purposes of any other Federal, State or local law—

"(1) cash assistance provided under the Project that represents food assistance shall be treated in the same manner as coupons provided under the food stamp program are treated; and

[8] "(2) participants in the program who receive food assistance under the Project shall be treated in the same manner as recipients of coupons under the food stamp program are treated.

"(g) PROJECT AUDITS.—The Comptroller General of the United States shall—

"(1) conduct periodic audits of the operation of the Project to verify the amounts payable to the State from time to time under subsection (b)(4); and

"(2) submit to the Secretary of Agriculture, the Secretary of Health and Human Services, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of each such audit.

"(h) EVALUATION.—With funds appropriated under section 18(a)(1), the Secretary shall conduct, in consultation with the Secretary of Health and Human Services, an evaluation of the Project.".

TITLE II—NATIONAL ECONOMIC COMMISSION

SEC. 2101. ESTABLISHMENT OF COMMISSION. 2 USC 901 note.

There is established a commission to be known as the National Economic Commission (in this subtitle referred to as the "Commission").

101 STAT. 1330-34

SEC. 2102. MEMBERSHIP OF COMMISSION. 2 USC 901 note.

(a) APPOINTMENT.—The Commission shall be initially composed of 12 members, appointed not later than March 1, 1988. After the meeting of the Presidential Electors in December 1988, the Commission shall be expanded to 14 members. The members shall be as follows:

(1) 2 citizens of the United States, appointed by the President. President of U.S.

(2) 1 Senator and 2 citizens of the United States, appointed by the President pro tempore of the Senate upon the recommendations of the Majority Leader of the Senate.

(3) 1 Senator and 1 citizen of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the Minority Leader of the Senate.

(4) 1 Member of the House of Representatives and 2 citizens of the United States, appointed by the Speaker of the House of Representatives.

(5) 1 Member of the House of Representatives and 1 citizen of the United States, appointed by the Minority Leader of the House of Representatives.

(6) 2 citizens of the United States, 1 of whom is a Democrat and 1 of whom is a Republican, appointed by the President-elect as established by the allocation of electoral college votes in the Presidential election of November 8, 1988. President of U.S.

(b) ADDITIONAL QUALIFICATIONS.—

(1) Individuals appointed under subsection (a)(1) may be officers or employees of the Executive Branch or may be private citizens.

(2) Individuals who are not Members of the Congress, and are appointed under paragraphs (2) through (6) of subsection (a) shall be individuals who—

(A) are leaders of business or labor, distinguished academics, State or local government officials, or other individuals with distinctive qualifications or experience; and

(B) are not officers or employees of the United States.

[8] Copy had wrong indention for paragraph "(2)".

(c) CHAIRPERSON.—The Commission shall elect a Chairperson from among the members of the Commission.

(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(e) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(f) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(g) PROHIBITION OF ADDITIONAL PAY.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission. Members appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available for such expenses.

2 USC 901 note.

SEC. 2103. FUNCTIONS OF COMMISSION.

101 STAT. 1330-35

(a) SPECIFIC RECOMMENDATIONS.—The Commission shall make specific recommendations regarding the following:

(1) Methods to reduce the Federal budget deficit while promoting economic growth and encouraging saving and capital formation.

(2) A means of ensuring that the burden of achieving the Federal budget deficit reduction goals of the United States does not undermine economic growth and is equitably distributed and not borne disproportionately by any one economic group, social group, region or State.

(b) FINAL REPORT.—

(1) Subject to section 2103(b)(3), the Commission shall submit to the President and to the Congress on March 1, 1989, a final report which shall contain a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative and legislative action that the Commission considers advisable.

(2) Any recommendation may be made by the Commission to the President and to the Congress only if adopted by a majority vote of the members of the Commission who are present and voting.

President of U.S.

(3) On February 1, 1989, the President may issue an order extending the date for submission of the final report to September 1, 1989.

2 USC 901 note.

SEC. 2104. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this subtitle, hold such hearings and sit and act at such times and places, as the Commission may find advisable.

(b) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this subtitle. Each such agency or instrumentality shall, to the extent permitted by law and subject to the exceptions set forth in section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(2) Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(B) detail any of the personnel of such agency or instrumentality to the Commission, on a non-reimburseable basis, to assist the Commission in carrying out its duties under this subtitle, except that any expenses of the Commission incurred under this subparagraph shall be subject to the limitation on total expenses set forth in section 2105(b).

(c) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(d) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this subtitle, subject to the limitation on total expenses set forth in section 2105(b). 101 STAT. 1330-36

(e) STAFF.—Subject to such rules and regulations as may be adopted by the Commission, the Chairperson of the Commission (subject to the limitation on total expenses set forth in section 2105(b)) shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairperson deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(f) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 2105. EXPENSES OF COMMISSION. 2 USC 901 note.

(a) IN GENERAL.—Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(b) LIMITATION.—The total expenses of the Commission shall not exceed $1,000,000.

(c) GAO AUDIT.—Prior to the termination of the Commission, pursuant to section 2106, the Comptroller General of the United States shall conduct an audit of the financial books and records of the Commission to determine that the limitation on expenses has been met, and shall include its determination in an opinion to be included in the report of the Commission.

SEC. 2106. TERMINATION OF COMMISSION. 2 USC 901 note.

The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits its report.

TITLE III—EDUCATION PROGRAMS

Subtitle A—Guaranteed Student Loan Program Savings

SEC. 3001. RECOVERY OF EXCESS CASH RESERVES ACCUMULATED UNDER THE GUARANTEED STUDENT LOAN PROGRAM.

(a) IN GENERAL.—Section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is amended by adding at the end thereof the following new subsection:

"(e) REDUCTION OF EXCESS CASH RESERVES.—

"(1) LIMITATION ON MAXIMUM CASH RESERVES.—A guaranty

agency shall not accumulate cash reserves in excess of the greater of—

"(A) 40 percent of the total amount paid by that agency
101 STAT. 1330-37 on insurance claims during the preceding fiscal year;

"(B) 0.3 percent of original principal amount of loans that are insured by that agency and that are outstanding at the end of such preceding fiscal year;

"(C) an amount which, when combined with all other parts of total agency reserves, equals 0.4 percent of such original principal amount;

"(D) $500,000; or

"(E) the amount required to comply with the reserve requirements of a State law as in effect on October 17, 1986.

"(2) RECOVERY OF EXCESS CASH RESERVES.—The Secretary shall, not later than March 31, 1988, determine for each guaranty agency the maximum cash reserve permitted under paragraph (1) for fiscal year 1986. Subject to paragraphs (3) and (4), if the Secretary determines that any guaranty agency had, at the end of fiscal year 1986, a cash reserve that exceeded such maximum, the Secretary shall direct the agency to eliminate such excess by any one or more of the following methods, as selected by the guaranty agency:

"(A) by repaying any advances to such agency made by the Secretary under this section that are not required to be repaid under subsection (d);

"(B) by withholding and canceling claims for reimbursement otherwise payable under section 428(c)(1);

"(C) by reducing the amount of payments for which application will be made by such agency under section 428(f); or

"(D) by any other method of reducing payments from or increasing payments to the Federal Government, including payment of additional reinsurance fees in addition to the fees required by section 428(c)(9), as proposed by the agency and agreed to by the Secretary.

"(3) APPEALS BASED ON SPECIAL CIRCUMSTANCES.—(A) If the Secretary determines, on the basis of an application from a guaranty agency, that—

"(i) the agency's financial position has deteriorated significantly since the end of the preceding fiscal year;

"(ii) significant changes in the economic circumstances (such as a change in agency current cash reserves) or the loan insurance program render the limitations of paragraph (1) inadequate for the continued functioning of the agency; or

"(iii) in recovering funds as required by this subsection, a guaranty agency would be compelled to violate contractual obligations existing on the date of enactment of this subsection that require a specified level of reserve funds to be maintained by such agency;

the Secretary may waive, in whole or in part, the imposition of the remedies required by paragraph (2) for such agency.

"(B) The Secretary shall respond to request for waivers from guaranty agencies in an expedited manner and, except for unusual circumstances or with the consent of the guaranty agency, shall resolve such request within 6 weeks of submission.

"(4) RECOVERY LIMITS.—The Secretary shall not require a total reduction of cash reserves for all guaranty agencies in excess of $250,000,000 during fiscal year 1988. If the total of cash reserves of all guaranty agencies exceeds the maximum amounts per-
101 STAT. 1330-38 mitted under paragraph (1) by more than $250,000,000, the Secretary shall ratably reduce the amounts that guaranty agencies are directed to eliminate under paragraph (2), so that the total excess cash reserves to be eliminated equals $250,000,000.

"(5) DEFINITIONS.—As used in this subsection—

"(A) the 'cash reserves' for any guaranty agency for any

fiscal year are equal to the agency's cumulative cash receipts less the agency's cumulative cash disbursements at the end of such fiscal year;

"(B) the 'total reserves' for any guaranty agency for any fiscal year are equal to the agency's cash reserves plus the agency's cumulative accounts receivable less the agency's accounts payable, as of the end of such fiscal year;

"(C) the term 'cumulative cash receipts' includes such receipts as insurance premiums, Federal reinsurance payments, and collections on defaulted loans;

"(D) the term 'cumulative cash disbursements' includes such disbursements as payments for default claims, repayment of Federal advances, transfers to other State activities, and payment of collection costs and other operating costs;

"(E) the term 'accounts receivable' includes Federal reinsurance payments and administrative cost allowances owed but not yet paid to the guaranty agency, as of the end of a fiscal year; and

"(F) the term 'accounts payable' includes collections and reinsurance fees due (but not paid) to the Department of Education, as of the end of a fiscal year.".

(b) CONFORMING AMENDMENTS.—

(1) The second sentence of section 428(c)(1)(A) of such Act (20 U.S.C. 1078(c)(1)(A)) is amended by striking out "shall be deemed" and inserting "shall, subject to section 422(e), be deemed".

(2) Section 428(c)(9)(A) of such Act is amended by striking out "an amount equal to" and inserting "an amount, subject to section 422(e), equal to".

(3) The second sentence of section 428(f)(1)(B) of such Act is amended by striking out "shall be deemed" and inserting "shall, subject to section 422(e), be deemed".

SEC. 3002. REPEAL.

(a) IN GENERAL.—Subsection (e) of section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is repealed on September 30, 1989.

(b) CONFORMING AMENDMENTS.—

(1) Effective September 30, 1989, the second sentence of section 428(c)(1)(A) of such Act (20 U.S.C. 1078(c)(1)(A)) is amended by striking out "shall, subject to section 422(e), be deemed" and inserting "shall be deemed".

(2) Effective September 30, 1989, section 428(c)(9)(A) of such Act is amended by striking out "an amount, subject to section 422(e), equal to" and inserting "an amount equal to".

(3) Effective September 30, 1989, the second sentence of section 428(f)(1)(B) of such Act is amended by striking out "shall, subject to section 422(e), be deemed" and inserting "shall be deemed".

101 STAT. 1330-39

SEC. 3003. INFORMATION ON DEFAULTS REQUIRED.

(a) GENERAL RULE.—The first sentence of section 428(k)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078(k)(1)) is amended—

(1) by striking out "In" and inserting in lieu thereof "Notwithstanding any other provision of law, in"; and

(2) by striking out "may" and inserting in lieu thereof "shall".

(b) CONFORMING AMENDMENT.—The second sentence of section 428(k)(1) of such Act is amended by striking out "may" and inserting in lieu thereof "shall".

Subtitle B—Sale of College Facilities and Housing Loans

SEC. 3101. SALE OF COLLEGE FACILITIES AND HOUSING LOANS.

Section 783 of the Higher Education Act of 1965 (20 U.S.C. 1132i-2) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this title, after September 30, 1988, the Secretary shall not sell any of such obligations. Any agreement providing for delaying payment (with respect to obligations sold) until after September 30, 1988, or for delaying delivery of such obligations or delaying taking other actions in furtherance of such a sale until after such date, shall be considered to be a violatioh of the preceding sentence.".

TITLE IV—MEDICARE, MEDICAID, AND OTHER HEALTH-RELATED PROGRAMS

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[9] Sec. 4053. Elimination of 1975 floor for prevailing physician charges.
[10] Sec. 4054. Application of maximum allowable actual charge (MAAC).
[11] Sec. 4055. Applying copayment and deductible to certain outpatient physicians' services.
[12] Sec. 4056. Physician payment studies.

SUBPART B—PROVISIONS RELATING TO PAYMENTS FOR OTHER SERVICES

Sec. 4061. Extension of reduction for other part B items and services payments under sequester order.
Sec. 4062. Payments for durable medical equipment, prosthetic devices, orthotics, and prosthetics.
Sec. 4063. Payment for intraocular lenses.
Sec. 4064. Clinical diagnostic laboratory tests.
Sec. 4065. Return on equity payments to outpatient departments.
Sec. 4066. Payments to hospital outpatient departments for radiology.
Sec. 4067. Updating maximum rate of payment per visit for independent rural health clinics.
Sec. 4068. Payment for ambulatory surgery at eye, and eye and ear, specialty hospitals.

SUBPART C—ELIGIBILITY AND BENEFITS CHANGES

Sec. 4070. Coverage of mental health services.
Sec. 4071. Coverage of influenza vaccine and its administration.
Sec. 4072. Payment for therapeutic shoes for individuals with severe diabetic foot disease.
Sec. 4073. Coverage of certified nurse-midwife services. 101 STAT. 1330-41

Sec. 4074. Coverage of social worker services furnished by a health maintenance organization to its members.
Sec. 4075. Clarification of coverage of drugs used in immunosuppressive therapy.
Sec. 4076. Services of a physician assistant.
Sec. 4077. Psychologist services in clinics.
Sec. 4078. Provision of offsite comprehensive outpatient rehabilitation services.
Sec. 4079. Demonstration projects to provide payment on a prepaid, capitated basis for community nursing and ambulatory care furnished to medicare beneficiaries.
Sec. 4080. Part B premium.

SUBPART D—OTHER PROVISIONS

Sec. 4081. Submission of claims to supplemental insurance carriers.
Sec. 4082. Revision of part B hearings.
Sec. 4083. Provisions relating to Physician Payment Review Commission.
Sec. 4084. Technical amendments related to certified registered nurse anesthetists.
Sec. 4085. Miscellaneous and technical provisions.

PART 4—PEER REVIEW ORGANIZATIONS

Sec. 4091. Contract provisions.
Sec. 4092. Preference in contracting with in-State organizations.
Sec. 4093. Requiring reasonable notice and opportunity for discussion prior to denial of claim.
Sec. 4094. Peer [13] review norms and education.
Sec. 4095. Preexclusion hearings.
Sec. 4096. Limitation of beneficiary liability for services disallowed by peer review organizations.
Sec. 4097. Separate funding levels.

[9] Copy read "Sec. 4052.".
[10] Copy read "Sec. 4053.".
[11] Copy read "Sec. 4054.".
[12] Copy read "Sec. 4055.".
[13] Copy read "reer".

Subtitle B—Medicaid

PART 1—ELIGIBILITY AND BENEFITS

Sec. 4101. Medicaid benefits for poor children and pregnant women.
Sec. 4102. Home and community-based services for the elderly.
Sec. 4103. Physicians' services furnished by dentists.
Sec. 4104. Optional medicaid coverage of individuals in certain States [14] receiving only optional State [14] supplementary payments.
Sec. 4105. Miscellaneous SSI-related amendments.
Sec. 4106. Clarification of coverage of clinic services furnished to homeless outside facility.
Sec. 4107. Medically needy income levels for certain 2-member couples in California.[15]

PART 2—OTHER PROVISIONS

Sec. 4111. Increasing the maximum annual medicaid payments that may be made to the commonwealths and territories.
Sec. 4112. Adjustment in medicaid payment for inpatient hospital services furnished by disproportionate share hospitals.
Sec. 4113. HMO-related provisions.
Sec. 4114. Medicaid waiver for hospice care for AIDS patients.
Sec. 4115. State demonstration projects.
Sec. 4116. Waiver authority under the medicaid program for the Northern Mariana Islands.[16]
Sec. 4117. Delay quality control sanctions for medicaid.
Sec. 4118. Technical and miscellaneous amendments.

Subtitle C—Nursing Home Reform

PART 1—MEDICARE PROGRAM

Sec. 4201. Requirements for skilled nursing facilities.
Sec. 4202. Survey and certification process.
Sec. 4203. Enforcement process.
Sec. 4204. Effective dates.
Sec. 4205. Annual report.
101 STAT. 1330-42 Sec. 4206. Construction.

PART 2—MEDICAID PROGRAM

Sec. 4211. Requirements for nursing facilities.
Sec. 4212. Survey and certification process.
Sec. 4213. Enforcement process.
Sec. 4214. Effective dates.
Sec. 4215. Annual report.
Sec. 4216. Construction.
Sec. 4217. Final regulations with respect to plans of correction or reduction.
Sec. 4218. Medicaid certifications and recertifications for certain services.

Subtitle D—Vaccine Compensation

Sec. 4301. Short title, reference.
Sec. 4302. Effective date.
Sec. 4303. Compensation.
Sec. 4304. Petitions.
Sec. 4305. Citizen's actions.
Sec. 4306. Vaccine[16a] administrators.
Sec. 4307. Court jurisdiction.

Subtitle E—Rural Health

Sec. 4401. Office of Rural Health Policy.
Sec. 4402. Impact analyses of medicare rules and regulations on small rural hospitals.
Sec. 4403. Set aside for experiments and demonstration projects relating to rural health care issues.

PART 1—RELATING ONLY TO PART A

2 USC 902 note.

SEC. 4001. EXTENSION OF REDUCTIONS UNDER SEQUESTER ORDER.

President of U.S.

Notwithstanding any other provision of law (including any other provision of this Act), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit

[14] Copy read "states", and "state", respectively.
[15] Copy read "california.".
[16] Copy read "northern mariana islands.".
[16a] Copy read "Vacine".

Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through—

(1) March 31, 1988, with respect to payments for inpatient hospital services under such title (including payments under section 1886 of such title attributable or allocated to part A of such title); and

(2) December 31, 1987, with respect to payments for other items and services under part A of such title.

SEC. 4002. BASIC HOSPITAL PROSPECTIVE PAYMENT RATES.

(a) BASIC UPDATE FACTOR FOR PPS HOSPITALS.—Clause (i) of section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended by striking "and for fiscal year 1988" in subclause (II) and all that follows through the end of such clause and inserting after such subclause the following:

"(III) for fiscal year 1988, 3.0 percent for hospitals located in a rural area, 1.5 percent for hospitals located in a large urban area (as defined in subsection (d)(2)(D)), and 1.0 percent for other hospitals,

"(IV) for fiscal year 1989, the market basket percentage increase minus 1.5 percent for hospitals located in a rural area, the market basket percentage increase minus 2.0 percent for hospitals located in a large urban area, and the market basket percentage increase minus 2.5 percent for other hospitals, and

"(V) for fiscal year 1990 and each subsequent fiscal year, the market basket percentage for hospitals in all areas.". 101 STAT. 1330-43

(b) LARGE URBAN AREA DEFINED.—The second sentence of section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D)) [16b] is amended by inserting after "under subsection (a) by regulation;" the following: "the term 'large urban area' means, with respect to a fiscal year, such an urban area which the Secretary determines (in the publication described in subsection (e)(5)(B) before the fiscal year) has a population of more than 1,000,000 (as determined by the Secretary based on the most recent available population data published by the Bureau of the Census);".

(c) ADJUSTMENT FOR HOSPITALS IN LARGE URBAN AREAS OR IN RURAL AREAS.—

(1) IN GENERAL.—Section 1886(d)(3) of such Act (42 U.S.C. 1395ww(d)(3)) is amended—

(A) in the matter before subparagraph (A), by striking "urban or rural areas" and inserting "large urban, other urban, or rural areas";

(B) in first sentence of subparagraph (A)—

(i) by striking "The Secretary" and inserting "(i) For discharges occuring in a fiscal year beginning before October 1, 1987, the Secretary",

(ii) by striking "each of fiscal years 1985, 1986, 1987, and 1988" and inserting "the fiscal year involved", and

(iii) by striking ", and adjusted for subsequent fiscal years in accordance with the final determination of the Secretary under subsection (e)(4), and adjusted to reflect the most recent case-mix data available,";

(C) by adding at the end of subparagraph (A) the following new clauses:

"(ii) For discharges occurring in a fiscal year beginning on or after October 1, 1987, the Secretary shall compute an average standardized amount for hospitals located in a large urban area, for hospitals located in a rural area, and for hospitals located in urban areas, within the United States and within each region, equal to the respective average standardized amount computed for the previous fiscal year under this subparagraph increased by the applicable percentage increase under subsection (b)(3)(B)(i) with respect to hospitals located in the respective areas for the fiscal year involved.

[16b] Copy read "(42 U.S.C. 1395www(d)(2)(D))".

"(iii) Average standardized amounts computed under this paragraph shall be adjusted to reflect the most recent case-mix data available."; and

(D) in subparagraph (D)—

(i) by striking "URBAN AND RURAL HOSPITALS" in the heading and inserting "HOSPITALS IN DIFFERENT AREAS",

(ii) in clause (i), by inserting "(or, for discharges occurring on or after April 1, 1988, in a large urban area or other urban area)" after "urban area" the first place it appears, and

(iii) in clause (i), by inserting "such" before "an urban area" the second place it appears.

(2) CONFORMING AMENDMENTS.—Section 1886(d)(9)(A) of such Act (42 U.S.C. 1395ww(d)(9)(A)) is amended—

(A) in clause (ii)(I), by striking "an urban area, and" and inserting "a large urban area,";

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(B) by redesignating subclause (II) of clause (ii) as subclause (III); and

(C) by inserting after subclause (I) of clause (ii) the following new subclause:

"(II) such rate for hospitals located in other urban areas, and".

(d) ESTABLISHMENT OF REGIONAL FLOOR.—Section 1886(d)(1)(A)(iii) of such Act (42 U.S.C. 1395ww(d)(1)(A)(iii)) is amended by inserting before the period at the end the following: ", or, if greater for discharges occurring during the period beginning on April 1, 1988, and ending on September 30, 1990, the sum of (I) 85 percent of the national adjusted DRG prospective payment rate determined under paragraph (3) for such discharges, and (II) 15 percent of the regional adjusted DRG prospective payment rate determined under such paragraph".

(e) UPDATE FOR PPS-EXEMPT HOSPITALS.—Section 1886(b)(3)(B) of such Act (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(1) in clause (i), by striking "subparagraph (A) for 12-month cost reporting periods beginning during a fiscal year and for purposes of",

(2) in clause (ii), by striking "(ii) For purposes of clause (i)" and inserting "(iii) For purposes of this subparagraph", and

(3) by inserting after clause (i) the following new clause:

"(ii) For purposes of subparagraph (A), the 'applicable percentage increase' for 12-month cost reporting periods beginning during—

"(I) fiscal year 1986, is 0.5 percent,

"(II) fiscal year 1987, is 1.15 percent,

"(III) fiscal year 1988, is the market basket percentage increase minus 2.0 percentage points, and

"(IV) subsequent fiscal years is the market basket percentage increase.".

(f) RELATED CONFORMING AND TECHNICAL AMENDMENTS.—

(1) Section 1886 of such Act (42 U.S.C. 1395ww) is further amended—

(A) by adding at the end of subsection (d)(2)(D) the following new sentence: "For purposes of payment under this subsection, a hospital is considered to be located in an urban area or large urban area, respectively, if the hospital is paid under this subsection at the rate for hospitals located in such an area.";

(B) in subsection (e)(3)(B), by striking "or determine";

(C) in subsection (e)(4)—

(i) by striking "for fiscal year 1988" and inserting "for each fiscal year (beginning with fiscal year 1988)",

(ii) by striking "and shall determine for each subsequent fiscal year" and all that follows through "fiscal year, and", and

(iii) by amending the last sentence to read as follows: "The appropriate change factor may be different for all large urban subsection (d) hospitals, other urban

subsection (d) hospitals, urban subsection (d) Puerto Rico hospitals, rural subsection (d) hospitals, and rural subsection (d) Puerto Rico hospitals, and all other hospitals and units not paid under subsection (d), and may vary among such other hospitals and units."; and

(D) in paragraph (5), by striking "or determination" each place it appears.

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(2) Subsection (a)(1)(B)(ii) of section 107 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) is amended, effective as of the date of the enactment of such Act, by inserting ", the target percentage and DRG percentage shall be those specified in subsection (d)(1)(C)(iv) of such section, and the applicable percentage increase in a hospital's target amount shall be deemed to be 0 percent" before the period at the end.

42 USC 1395ww note.

(g) EFFECTIVE DATES.—

42 USC 1395ww note.

(1) PPS HOSPITALS, DRG PORTION OF PAYMENT.—In the case of a subsection (d) hospital (as defined in paragraph (6))—

(A) the amendments made by subsections (a) and (c) shall apply to payments made under section 1886(a)(1)(A)(iii) of the Social Security Act on the basis of discharges occurring on or after April 1, 1988, and

(B) for discharges occurring on or after October 1, 1988, the applicable percentage increase (described in section 1886(d)(3)(B) of such Act) [17] for discharges occurring during fiscal year 1987 is deemed to have been such percentage increase as amended by subsection (a).

(2) PPS SOLE COMMUNITY HOSPITALS, HOSPITAL SPECIFIC PORTION OF PAYMENT.—In the case of a subsection (d) hospital which receives payments made under section 1886(d)(1)(A) of the Social Security Act because it is a sole community hospital—

(A) the amendment made by subsections (a) and (c) shall apply to payments under section 1886(d)(1)(A)(ii)(I) of the Social Security Act made on the basis of discharges occurring during a cost reporting period of a hospital, for the hospital's cost reporting period beginning on or after October 1, 1987;

(B) notwithstanding subparagraph (A), for cost reporting period beginning during fiscal year 1988, the applicable percentage increase (as defined in section 1886(d)(3)(B) of such Act) for the—

(i) first 51 days of the cost reporting period shall be 0 percent,

(ii) next 132 days of such period shall be 2.7 percent, and

(iii) remainder of such period of the cost reporting period shall be the applicable percentage increase (as so defined, as amended by subsection (a)); and

(C) for cost reporting periods beginning on or after October 1, 1988, the applicable percentage increase (as so defined) with respect to the previous cost reporting period shall be deemed to have been the applicable percentage increase (as so defined, as amended by subsection (a)).

(3) PPS-EXEMPT HOSPITALS.—In the case of a hospital that is not a subsection (d) hospital—

(A) the amendments made by subsection (e) shall apply to cost reporting periods beginning on or after October 1, 1987;

(B) notwithstanding subparagraph (A), for the hospital's cost reporting period beginning during fiscal year 1988, payment under title XVIII of the Social Security Act shall be made as though the applicable percentage increase de-

[17] Copy read "Act))".

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scribed in section 1886(b)(3)(B) of such Act were equal to the product of 2.7 percent and the ratio of 315 to 366; and

(C) for cost reporting periods beginning on or after October 1, 1988, the applicable percentage increase (as so defined) with respect to the cost reporting period beginning during fiscal year 1988 shall be deemed to have been 2.7 percent.

Effective date.

(4) DEFINITION, REGIONAL FLOOR, AND TECHNICAL AND CONFORMING AMENDMENTS.—The amendments made by subsections (b) and (d) and paragraphs (1) and (2) of subsection (f) shall take effect on the date of the enactment of this Act.

(5) TRANSITION FOR LARGE URBAN AREA RATES.—In computing the average standardized amount for hospitals located in a large urban area or other urban area under section 1886(d)(3)(A)(ii) of the Social Security Act (as amended by subsection (c)) for fiscal year 1988, the reference to "the respective average standardized amount computed for the previous fiscal year under this subparagraph" is deemed a reference to the average standardized amount computed for hospitals located in an urban area for the 51-day period beginning on October 1, 1987.

(6) DEFINITION.—In this subsection, the term "subsection (d) hospital" has the meaning given such term in section 1886(d)(10)(B) of the Social Security Act.

SEC. 4003. INCREASE IN DISPROPORTIONATE SHARE ADJUSTMENT AND REDUCTION IN INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) REDUCTION IN INDIRECT MEDICAL EDUCATION PAYMENTS.—

(1) Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(A) in subclause (I), by striking "2" and inserting in lieu thereof "1.89"; and

(B) in subclause (II), by striking "1.5" and inserting in lieu thereof "1.43".

(2) Section 1886(d)(3)(C)(ii) of such Act (42 U.S.C. 1395ww(d)(3)(C)(ii)) is amended by inserting "and by section 4003(a)(1) of the Omnibus Budget Reconciliation Act of 1987" after "1985" each place it appears in subclauses (I) and (II).

(b) INCREASE IN DISPROPORTIONATE SHARE ADJUSTMENT.—Section 1886(d)(5)(F) of such Act (42 U.S.C. 1395ww(d)(5)(B))—

(1) in clause (iii), by striking "15 percent" and inserting "25 percent", and

(2) in clause (iv)(I), by striking "the lesser of 15 percent, or".

(c) EXTENSION OF DISPROPORTIONATE SHARE ADJUSTMENT.—Sections 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)), 1886(d)(3)(C)(ii)(I) (42 U.S.C. 1395ww(d)(3)(C)(ii)(I)), 1886(d)(3)(C)(ii)(II) (42 U.S.C. 1395ww(d)(3)(C)(ii)(II)), 1886(d)(5)(B)(ii)(I) (42 U.S.C. 1395ww(d)(5)(B)(ii)(I)), 1886(d)(5)(B)(ii)(II) (42 U.S.C. 1395ww(d)(5)(B)(ii)(II)), and 1886(d)(5)(F)(i) (42 U.S.C. 1395ww(d)(5)(F)(i)) of the Social Security Act are each amended by striking "1989" and inserting in lieu thereof "1990".

(d) SPECIAL RULE.—In the case of a hospital which—

(1) consists of 2 inpatient hospital facilities which are more than 4 miles apart and each of which is in a separate political jurisdiction within the same State and one of which meets the criteria under section 1886(d)(5)(F) of the Social Security Act for serving a significantly disproportionate number of low-income patients as if that facility were a separate hospital; and

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(2) receives payments for inpatient hospital services under title XVIII of the Social Security Act which are less than the hospital's reasonable costs,

the Secretary of Health and Human Services, upon application by the hospital, may treat each of the facilities of hospital as separate hospitals for purposes of applying section 1886(d)(5)(F) of the Social Security Act, for discharges occurring on or after October 1, 1988.

42 USC 1395ww note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for discharges occurring on or after October 1, 1988.

SEC. 4004. PROVISIONS RELATING TO WAGE INDEX.

(a) SURVEY.—Section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) is amended by adding at the end the following: "Not later than October 1, 1990 (and at least every 36 months thereafter), the Secretary shall update the factor under the preceding sentence on the basis of a survey conducted by the Secretary (and updated as appropriate) of the wages and wage-related costs of subsection (d) hospitals in the United States. To the extent determined feasible by the Secretary, such survey shall measure the earnings and paid hours of employment by occupational category and shall exclude data with respect to the wages and wage-related costs incurred in furnishing skilled nursing facility services.".

(b) CLINIC HOSPITAL WAGE INDICES.—In calculating the wage index under section 1886(d) of the Social Security Act for purposes of making payment adjustments after September 30, 1988, as required under paragraphs (2)(H) and (3)(E) of such section, in the case of any institution which received the waiver specified in section 602(k) of the Social Security Amendments of 1983, the Secretary of Health and Human Services shall include wage costs paid to related organization employees directly involved in the delivery and administration of care provided by the related organization to hospital inpatients. For purposes of the preceding sentence, the term "wage costs" does not include costs of overhead or home office administrative salaries or any costs that are not incurred in the hospital's Metropolitan Statistical Area. 42 USC 1395ww note.

SEC. 4005. RURAL HOSPITALS.

(a) REVISION OF STANDARDS FOR INCLUDING A RURAL COUNTY IN AN URBAN AREA.—

(1) TREATING CERTAIN RURAL HOSPITALS ADJACENT TO URBAN AREAS AS URBAN HOSPITALS.—Section 1886(d)(8) of the Social Security Act (42 U.S.C. 1395ww(d)(8))—

(A) by redesignating clauses (i) and (ii) of subparagraphs (A) and (B) as subclauses (I) and (II), respectively,

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(C) by inserting "(A)" after "(8)", and

(D) by adding at the end the following new subparagraph:

"(B) The Secretary shall treat a hospital located in a rural county adjacent to one or more urban areas as being located in the urban metropolitan statistical area to which the greatest number of workers in the county commute, if—

"(i) the rural county would otherwise be considered part of an urban area but for the fact that the rural county does not meet the standard relating to the rate of commutation between the rural county and the central county or counties of any adjacent urban area; and 101 STAT. 1330-48

"(ii) either (I) the number of residents of the rural county who commute for employment to the central county or counties of any adjacent urban area is equal to at least 15 percent of the number of residents of the rural county who are employed, or (II) the sum of the number of residents of the rural county who commute for employment to the central county or counties of any adjacent urban area and the number of residents of any adjacent urban area who commute for employment to the rural county is at least equal to 20 percent of the number of residents of the rural county who are employed.

"(C) The Secretary shall make a proportional adjustment in the standardized amount determined under paragraph (3) for hospitals located in an urban area to assure that the provisions of subparagraph (B) do not result in aggregate payments under this section that are greater or less than those that would otherwise be made. The Secretary shall make such adjustment in payments under this section to hospitals located in rural areas as are necessary to assure

that the aggregate of payments to rural hospitals not affected by subparagraph (B) are not changed as a result of the application of subparagraph (B).".

(2) LOCATION OF HOSPITAL.—For purposes of section 1886 of the Social Security Act, Watertown Memorial Hospital in Watertown, Wisconsin is deemed to be located in Jefferson County, Wisconsin.

42 USC 1395ww note.

(3) EFFECTIVE DATE.—This section, and the amendments made by paragraph (1), shall apply to discharges occurring on or after October 1, 1988.

(b) EXPANSION OF SWING-BED PROGRAM.—

(1) EXPANSION TO HOSPITALS WITH FEWER THAN 100 BEDS.—Section 1883(b)(1) of the Social Security Act (42 U.S.C. 1395tt(b)(1)) is amended by striking "50 beds" and inserting "100 beds".

(2) REQUIREMENTS FOR HOSPITALS WITH MORE THAN 49 BEDS.—

42 USC 1395tt.

Section 1883(d) of such Act (42 U.S.C. 1395dd(d)) is amended—

(A) by inserting "(1)" after "(d)", and

(B) by adding at the end the following new paragraphs:

"(2)(A) Any agreement under this section with a hospital with more than 49 beds shall provide that no payment may be made for extended care services which are furnished to an extended care patient after the end of the 5-day period (excluding weekends and holidays) beginning on an availability date for a skilled nursing facility, unless the patient's physician certifies, within such 5-day period, that the transfer of that patient to that facility is not medically appropriate on the availability date. The Secretary shall prescribe regulations to provide for notice by skilled nursing facilities of availability dates to hospitals which have agreements under this section and which are located within the same geographic region (as defined by the Secretary).

Regulations.

"(B) In this paragraph:

"(i) The term 'availability date' means, with respect to an extended care patient at a hospital, any date on which a bed is available for the patient in a skilled nursing facility located within the geographic region in which the hospital is located.

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"(ii) The term 'extended care patient' means an individual being furnished extended care services at a hospital pursuant to an agreement with the Secretary under this section.

"(3) In the case of an agreement for a cost reporting period under this section with a hospital that has more than 49 beds, payment may not be made in the period for patient-days of extended care services that exceed 15 percent of the product of the number of days in the period and the average number of licensed beds in the hospital in the period.".

42 USC 1395tt note.

(3) REPORT.—The Secretary of Health and Human Services shall report to Congress, not later than February 1, 1989, concerning—

(A) the proportion of admissions to hospitals for extended care services under section 1883 of the Social Security Act which are denied or approved by a peer review organization under section 1154(a)(1) of such Act, and

(B) on recommendations for methods of encouraging hospitals that—

(i) have a low occupancy rate,

(ii) are eligible to enter (but have not entered) into an agreement under section 1883 of such Act, and

(iii) are located in areas with a need for additional providers of extended care services,

to enter into such agreements.

42 USC 1395tt note.

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to agreements under section 1883 of the Social Security Act entered into after March 31, 1988.

(c) PAYMENTS TO SOLE COMMUNITY HOSPITALS.—

(1) Section 1886(d)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(ii)) is amended—

(A) by striking "1988" in the second sentence and inserting "1990", and

(B) by inserting after the second sentence the following: "A subsection (d) hospital that meets the criteria for classification as a sole community hospital and otherwise qualifies for the adjustment authorized by the preceding sentence may qualify for such an adjustment without regard to the formula by which payments are determined for the hospital under paragraph (1)(A).".

(2)(A) The amendments made by paragraph (1) shall apply to cost reporting periods beginning on or after October 1, 1987 42 USC 1395ww note.

(B) The Secretary of Health and Human Services shall take appropriate steps to ensure that the total amount paid in a fiscal year under title XVIII of the Social Security Act by reason of the amendment made by paragraph (1)(B) does not exceed $5,000,000 in the case of fiscal year 1988 and $10,000,000 for fiscal year 1989.

(d) MEDICARE CLASSIFICATION OF RURAL REFERRAL CENTERS.—

(1) EXTENSION OF CLASSIFICATION.—

(A) IN GENERAL.—The first sentence of section 1886(d)(5)(C)(i)(I) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(i)(I)) is amended by striking "500" and inserting "275".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to discharges occurring on or after April 1, 1988. 42 USC 1395ww note.

(2) STUDY.— 42 USC 1395ww note.

(A) IN GENERAL.—The Secretary of Health and Human Services shall provide for a study of the criteria used for the classification of hospitals as rural referral centers under section 1886(d)(5)(C)(i) of the Social Security Act. The study shall include an examination of— 101 STAT. 1330-50

(i) the extent that hospitals classified as rural referral centers receive more or less than their actual costs of providing inpatient hospital services, and

(ii) the appropriateness of providing for payment for such centers at a rate other than the rate for a hospital located in an other urban area.

(B) REPORT.—The Secretary shall report to Congress, by not later than March 1, 1989, on the study conducted under subparagraph (A) and on recommendations for the criteria that should be applied under section 1886(d)(5)(C)(i) of the Social Security Act for the classification of hospitals as rural referral centers for cost reporting periods beginning on or after October 1, 1989.

(e) GRANT PROGRAM FOR RURAL HEALTH CARE TRANSITION.— 42 USC 1395ww note.

(1) The Administrator of the Health Care Financing Administration, in consultation with the Assistant Secretary for Health (or a designee), shall establish a program of grants to assist eligible small rural hospitals and their communities in the planning and implementation of projects to modify the type and extent of services such hospitals provide in order to adjust for one or more of the following factors:

(A) Changes in clinical practice patterns.

(B) Changes in service populations.

(C) Declining demand for acute-care inpatient hospital capacity.

(D) Declining ability to provide appropriate staffing for inpatient hospitals.

(E) Increasing demand for ambulatory and emergency services.

(F) Increasing demand for appropriate integration of community health services.

(G) The need for adequate access (including appropriate transportation) to emergency care and inpatient care in areas in which a significant number of underutilized hospital beds are being eliminated.

(H) The Administrator shall submit a final report on the program to the Congress not later than 180 days after all projects receiving a grant under the program are completed.

Each demonstration project under this subsection shall demonstrate methods of strengthening the financial and managerial capability of the hospital involved to provide necessary services. Such methods may include programs of cooperation with other health care providers, of diversification in services furnished (including the provision of home health services), of physician recruitment, and of improved management systems.

(2) For purposes of this subsection, the term "eligible small rural hospital" [18] means any non-Federal, short-term general acute care hospital that—

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(A) is located in a rural area (as determined in accordance with subsection (d)),

(B) has less than 100 beds, and

(C) is not for profit.

(3)(A) Any eligible small rural hospital that desires to modify the type or extent of health care services that it provides in order to adjust for one or more of the factors specified in paragraph (1) may submit an application to the Governor of the State in which it is located. The application shall specify the nature of the project proposed by the hospital, the data and information on which the project is based, and a timetable (of not more than 24 months) for completion of the project. The application shall be submitted on or before a date specified by the Administrator and shall be in such form as the Administrator may require.

(B) The Governor shall transmit any application submitted pursuant to subparagraph (A) to the Secretary not later than 30 days after it is received by the Governor, accompanied by any comments with respect to the application that the Governor deems appropriate.

(C) The Governor of a State may designate an appropriate State agency to receive and comment on applications submitted under subparagraph (A).

(4) A hospital shall be considered to be located in a rural area for purposes of this subsection if it is treated as being located in a rural area for purposes of section 1886(d)(3)(D) of the Social Security Act.

(5) In determining which hospitals making application under paragraph (3) will receive grants under this subsection, the Administrator shall take into account—

(A) any comments received under paragraph (3)(B) with respect to a proposed project;

(B) the effect that the project will have on—

(i) reducing expenditures from the Federal Hospital Insurance Trust Fund,

(ii) improving the access of medicare beneficiaries to health care of a reasonable quality;

(C) the extent to which the proposal of the hospital, using appropriate data, demonstrates an understanding of—

(i) the primary market or service area of the hospital, and

(ii) the health care needs of the elderly and disabled that are not currently being met by providers in such market or area, and

[18] Copy read " 'eligible small rural hospital' ".

(D) the degree of coordination that may be expected between the proposed project and—

(i) other local or regional health care providers, and

(ii) community and government leaders,

as evidenced by the availability of support for the project (in cash or in kind) and other relevant factors.

(6) A grant to a hospital under this subsection may not exceed $50,000 a year and may not exceed a term of 2 years.

(7)(A) Except as provided in subparagraphs (D) and (C), a hospital receiving a grant under this subsection may use the grant for any of expenses incurred in planning and implementing the project with respect to which the grant is made. 101 STAT. 1330–52

(B) A hospital receiving a grant under this subsection for a project may not use the grant to retire debt incurred with respect to any capital expenditure made prior to the date on which the project is initiated.

(C) Not more than one-third of any grant made under this subsection may be expended for capital-related costs (as defined by the Secretary for purposes of section 1886(a)(4) of the Social Security Act) of the project.

(8)(A) A hospital receiving a grant under this section shall furnish the Administrator with such information as the Administrator may require to evaluate the project with respect to which the grant is made and to ensure that the grant is expended for the purposes for which it was made.

(B) The Administrator shall report to the Congress at least once every 6 months on the program of grants established under this subsection. The report shall assess the functioning and status of the program, shall evaluate the progress made toward achieving the purposes of the program, and shall include any recommendations the Secretary may deem appropriate with respect to the program. In preparing the report, the Secretary shall solicit and include the comments and recommendations of private and public entities with an interest in rural health care. Reports.

(C) The Administrator shall submit a final report on the program to the Congress not later than 180 days after all projects receiving a grant under the program are completed. Reports.

(9) For purposes of carrying out the program of grants under this subsection, there are authorized to be appropriated from the Federal Hospital Insurance Trust Fund $15,000,000 for each of the fiscal years 1989 and 1990.

SEC. 4006. PAYMENTS FOR HOSPITAL CAPITAL.

(a) REDUCTIONS IN PAYMENTS FOR CAPITAL.—Section 1886(g)(3)(A) of the Social Security Act (42 U.S.C. 1395ww(g)(3)(A)) is amended—

(A) in clause (ii), by striking ", and" and inserting "on or after October 1, 1987, and before January 1, 1988,",

(B) by striking clause (iii) and inserting the following:

"(iii) 12 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) in fiscal year 1988, occurring on or after January 1, 1988, and

"(iv) 15 percent to portions of cost reporting periods or discharges (as the case may) be occurring during fiscal year 1989.".

(b) PROSPECTIVE PAYMENT FOR CAPITAL-RELATED COSTS.—

(1) IN GENERAL.—Paragraph (1) of section 1886(g) of such Act (42 U.S.C. 1395ww(g)) is amended to read as follows:

"(g)(1)(A) Notwithstanding section 1861(v), instead of any amounts that are otherwise payable under this title with respect to the reasonable costs of subsection (d) hospitals and subsection (d) Puerto Rico hospitals for capital-related costs of inpatient hospital services, the Secretary shall, for hospital cost reporting periods beginning on or after October 1, 1991, provide for payments for such costs in accordance with a prospective payment system established by the Secretary.

"(B) Such system—

"(i) shall provide for (I) a payment on a per discharge basis, and (II) an appropriate weighting of such payment amount as

101 STAT. 1330–53 relates to the classification of the discharge;

"(ii) may provide for an adjustment to take into account variations in the relative costs of capital and construction for the different types of facilities or areas in which they are located;

"(iii) may provide for such exceptions (including appropriate exceptions to reflect capital obligations) as the Secretary determines to be appropriate, and

"(iv) may provide for suitable adjustment to reflect hospital occupancy rate.

"(C) In this paragraph, the term 'capital-related costs' has the meaning given such term by the Secretary under subsection (a)(4) as of September 30, 1987, and does not include a return on equity capital.".

42 USC 1395ww. (2) CONFORMING AMENDMENT.—Section 1886 of such Act is amended—

(A) in subsection (a)(4), by striking "with respect to costs incurred in cost reporting periods beginning prior to October 1 of 1987 (or of such later year as the Secretary may, in his discretion, select), other capital-related costs, as defined by the Secretary" and inserting "other capital-related costs (as defined by the Secretary for periods before October 1, 1987)", and

(B) by striking subparagraph (C) of subsection (g)(3).

42 USC 1395ww note. (3) EFFECTIVE DATES.—The amendment made by paragraph (1) shall take effect on October 1, 1987. The amendments made by paragraph (2) shall apply to cost reporting periods beginning on or after October 1, 1987.

(c) PROPAC REPORT ON ADJUSTMENT FOR HOSPITAL OCCUPANCY.—The Prospective Payment Assessment Commission shall study and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, by not later than May 1, 1988, on the suitability and feasibility of linking payment for capital-related costs under part A of title XVIII of the Social Security Act to hospital occupancy rates.

42 USC 1395ww note. SEC. 4007. REPORTING HOSPITAL INFORMATION.

(a) DEVELOPMENT OF DATA BASE.—The Secretary of Health and Human Services (in [19] this section referred to as the "Secretary") shall develop and place into effect not later than June 1, 1989, a data base of the operating costs of inpatient hospital services with respect to all hospitals under title XVIII of the Social Security Act, which data base shall be updated at least once every quarter (and maintained for the 12-month period preceding any such update). The data base under this subsection may include data from preliminary cost reports (but the Secretary shall make available an updata analysis of the differences between preliminary and settled cost reports).

(b) REPORTING OF INFORMATION ELECTRONICALLY.—

[20] (1) Subject to paragraph (2), with respect to hospital cost reporting periods beginning on or after October 1, 1989, the Secretary shall place into effect a standardized electronic cost reporting format for hospitals under the medicare program.

(2) The Secretary may delay or waive the implementation of

101 STAT. 1330–54 such format in particular instances where such implementation would result in financial hardship (in particular with respect to a small percentage of medicare volume).

(c) DEMONSTRATION PROJECT.—

(1) The Secretary of Health and Human Services shall provide for a 3-year demonstration project to develop, and determine

[19] Copy read "Services, (in".
[20] Copy read "ELECTRONICALLY.—Subject"

the costs and benefits of establishing a uniform system for the reporting by medicare participating hospitals of balance sheet and information described in paragraph (2). In contracting the project, the Secretary shall require hospitals in at least 2 States, one of which maintains a uniform hospital reporting system, to report such information based on standard information established by the Secretary. Contracts.

(2) The information described in this paragraph is as follows:

(A) Hospital discharges (classified by category of service and by class of primary payer).

(B) Patient days (classified by category of service and by class of primary payer).

(C) Licensed beds, staffed beds, and occupancy (by category of service).

(D) Outpatient visits (classified by class of primary payer).

(E) Inpatient charges and revenues (classified by class of primary payer).

(F) Outpatient charges and revenues (classified by class of primary payer).

(G) Inpatient and outpatient hospital expenses (by cost-center classified for operating and capital).

(H) Reasonable costs.

(I) Other income.

(J) Uncompensated care (classified by bad debt and charity care).

(K) Capital acquisitions.

(L) Capital assets.

(3) The Secretary shall develop the system under subsection (c) in a manner so as—

(A) to facilitate the submittal of the information in the report in an electronic form, and

(B) to be compatible with the needs of the medicare prospective payment system.

(4) The Secretary shall prepare and submit, to the Prospective Payment Assessment Commission, the Comptroller General, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, by not later than 45 days after the end of each calendar quarter, data collected under the system.

(5) In paragraph (3):

(A) The terms "bad debt" and "charity care" have such meanings as the Secretary establishes.

(B) The term "class" means, with respect to payers, the programs under this title VIII of the Social Security Act, a State plan approved under title XIX of such Act, other third party-payers, and self-paying individuals.

(6) [21] The Secretary shall set aside at least $1,000,000 for each of fiscal years 1988, 1989, and 1990 from existing research funds to develop the format, according to paragraph (1), and at least $2,000,000 from program operations funds for data collection and analysis, but total funds shall not exceed $15,000,000 over 3 years. 101 STAT. 1330-55

(7) [22] The Comptroller General shall analyze the adequacy of the existing system for reporting of hospital information and the costs and benefits of data reporting under the demonstration system and will recommend improvements in hospital data collection and in analysis and display of data in support of policy making.

[23] (d) CONSULTATION.—The Secretary shall consult representatives of the hospital industry in carrying out the provisions of this section.

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[21] Copy read "(7)".
[22] Copy read "(8)".
[23] "(d)" Paragraph had wrong indention.

SEC. 4008. OTHER PROVISIONS RELATING TO PAYMENT FOR INPATIENT HOSPITAL SERVICES.

(a) MASSACHUSETTS MEDICARE REPAYMENT.—The Secretary of Health and Human Services shall not, on or after the date of the enactment of this Act, and before January 1, 1989, recoup from, or otherwise reduce payments to, hospitals in the State of Massachusetts because of alleged overpayments to such hospitals under part A of title XVIII of the Social Security Act which occurred during the period of the statewide hospital reimbursement demonstration project conducted in that State, between October 1, 1982, and June 30, 1986, under section 402 of the Social Security Amendments of 1967 and section 222 of the Social Security Amendments of 1972.

(b) CLARIFICATION OF SECTION 1814(b) STATE WAIVER AUTHORITY.—

(1) APPLICATION OF AGGREGATE TEST.—Section 1814(b)(3)(B) of the Social Security Act (42 U.S.C. 1395f(b)(3)(B)) is amended by striking "rate of increase for the previous three-year period" and inserting "aggregate rate of increase from October 1, 1983, to the most recent date for which annual data are available".

42 USC 1395f note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

42 USC 1395f note.

(c) CONTINUATION OF BAD DEBT RECOGNITION FOR HOSPITAL SERVICES.—In making payments to hospitals under title XVIII of the Social Security Act, the Secretary of Health and Human Services shall not make any change in the policy in effect on August 1, 1987, with respect to payment under title XVIII of the Social Security Act to providers of service for reasonable costs relating to unrecovered costs associated with unpaid deductible and coinsurance amounts incurred under such title (including criteria for what constitutes a reasonable collection effort).

42 USC 1395ww note.

(d) HOSPITAL OUTLIER PAYMENTS AND POLICY.—

(1) INCREASE IN OUTLIER PAYMENTS FOR BURN CENTER DRGS.—

(A) IN GENERAL.—For discharges classified in diagnosis-related groups relating to burn cases and occurring on or after April 1, 1988, and before October 1, 1989, the marginal cost of care permitted by the Secretary of Health and Human Services under section 1886(d)(5)(A)(iii) of the Social Security Act shall be 90 percent of the appropriate per diem cost of care or 90 percent of the cost for cost outliers.

(B) BUDGET NEUTRALITY.—Subparagraph (A) shall be implemented in a manner that ensures that total payments under section 1886 of the Social Security Act are not increased or decreased by reason of the adjustments required by such subparagraph.

101 STAT. 1330-56

(2) LIMITATION ON CHANGES IN OUTLIER REGULATIONS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, except as required to implement specific provisions required under statute, the Secretary of Health and Human Services is not authorized to issue in final form, after the date of the enactment of this Act and before September 1, 1988, any final regulation which changes the method of payment for outlier cases under section 1886(d)(5)(A) of the Social Security Act.

(B) PROPAC [24] REPORT.—The chairman of the Prospective Payment Assessment Commission shall report to the Congress and the Secretary of Health and Human Services, by not later than June 1, 1988, on the method of payment for outlier cases under such section and providing more adequate and appropriate payments with respect to burn outlier cases.

(3) REPORT ON OUTLIER PAYMENTS.—The Secretary of Health and Human Services shall include in the annual report submitted to the Congress pursuant to section 1875(b) of the Social Security Act a comparison with respect to hospitals located in

[24] Copy read "PhoPAC"

an urban area and hospitals located in a rural area in the amount of reductions under section 1886(d)(3)(B) of the Social Security Act and additional payments under section 1886(d)(5)(A) of such Act.

(e) MISCELLANEOUS ACCOUNTING PROVISION.—Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986, subsection (d) of section 9307 of such Act is amended to read as follows: 42 USC 1395ww note.

"(d) MISCELLANEOUS ACCOUNTING PROVISION.—Notwithstanding any other provision of law, for purposes of section 1886(d)(1)(A) of the Social Security Act, in the case of a hospital that—

"(1) had a cost reporting period beginning on September 28, 29, or 30 of 1985,

"(2) is located in a State in which inpatient hospital services were paid in fiscal year 1985 pursuant to a Statewide demonstration project under section 402 of the Social Security Amendments of 1967 and section 222 of the Social Security Amendments of 1972, and

"(3) elects, by notice to the Secretary of Health and Human Services by not later than April 1, 1988, to have this subsection apply,

during the first 7 months of such cost reporting period the 'target percentage' shall be 75 percent and the 'DRG percentage' shall be 25 percent, and during the remaining 5 months of such period the 'target percentage' and the 'DRG percentage' shall each be 50 percent.".

SEC. 4009. MISCELLANEOUS PROVISIONS.

(a) RESPONSIBILITIES OF MEDICARE HOSPITALS IN EMERGENCY CASES.—

(1) INCREASE IN CIVIL MONETARY PENALTY.—Section 1867(d)(2) of the Social Security Act (42 U.S.C. 1395dd(d)(2)) is amended by striking "$25,000" and inserting "$50,000". 101 STAT. 1330-57

(2) EXCLUSION FROM MEDICARE PROGRAM FOR VIOLATIONS.—Section 1867(d)(1) of such Act is amended by adding at the end the following new sentence:

"If a civil money penalty is imposed on a responsible physician under paragraph (2), the Secretary may impose the sanction described in section 1842(j)(2)(A) (relating to barring from participation in the medicare program) in the same manner as it is imposed under section 1842(j).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions occurring on or after the date of the enactment of this Act. 42 USC 1395dd note.

(b) DESIGNATION OF PEDIATRIC HOSPITALS AS MEETING CERTIFICATION AS HEART TRANSPLANT FACILITY.—For purposes of determining whether a pediatric hospital that performs pediatric heart transplants meets the criteria established by the Secretary of Health and Human Services for facilities in which the heart transplants performed will be considered to meet the requirement of section 1862(a)(1)(A) of the Social Security Act, the Secretary shall treat such a hospital as meeting such criteria if— 42 USC 1395y note.

(1) the hospital's pediatric heart transplant program is operated jointly by the hospital and another facility that meets such criteria,

(2) the unified program shares the same transplant surgeons and quality assurance program (including oversight committee, patient protocol, and patient selection criteria), and

(3) the hospital demonstrates to the satisfaction of the Secretary that it is able to provide the specialized facilities, services, and personnel that are required by pediatric heart transplant patients.

(c) WAIVER OF INPATIENT LIMITATIONS FOR THE CONNECTICUT HOSPICE.[25]—Subsection (a) of section 9307 of the Omnibus Budget Reconciliation Act of 1986 is amended— 100 Stat. 1995.

[25] Copy read "LIMITATIONS FOR THE CONNECTICUT HOSPICE.".

(1) by striking "TEMPORARY" in the heading, and

(2) by striking "for hospice care provided before October 1, 1988,".

(d) REVISION OF APPOINTMENT PROCESS FOR PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.—

(1) IN GENERAL.—Section 1886(e)(6)(B) of the Social Security Act (42 U.S.C. 1395ww(e)(6)(B)) is amended—

(A) in the first sentence, by striking "provide expertise and experience in the provision and financing of health care" and inserting "include individuals with national recognition for their expertise in health economics, hospital reimbursement, hospital financial management, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives,"; and

(B) by striking the last sentence.

42 USC 1395ww note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to appointments made after the date of the enactment of this Act.

(e) PSYCHOLOGISTS' SERVICES FURNISHED TO HOSPITAL

101 STAT. 1330-58 INPATIENTS.—

(1) IN GENERAL.—Section 1861(b)(3) of such Act (42 U.S.C. 1395x(b)(3)) is amended by inserting "(including clinical psychologist (as defined by the Secretary))" after "others" the first place it appears.

42 USC 1395x note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to services furnished on or after April 1, 1988.

(f) HOSPITAL CONDITION OF PARTICIPATION RELATED TO INDIVIDUAL RESPONSIBLE FOR CARE OF PATIENT.—Section 1861(e)(4) of such Act (42 U.S.C. 1395x(e)(4)) is amended by inserting "with respect to whom payment may be made under this title" after "patient".

42 USC 1320b-8 note.

(g) DELAY IN REQUIREMENTS RELATING TO HOSPITAL STANDARDS FOR ORGAN TRANSPLANTS AND STANDARDS FOR ORGAN PROCUREMENT AGENCIES.—

(1) Section 9318(b)(2) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 107(c) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is amended by striking "November 21, 1987" and inserting "March 31, 1988".

Effective date. 42 USC 1320b-8 note.

(2) The amendment made by paragraph (1) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

42 USC 1395ww note.

(h) PROPAC STUDIES AND REPORTS.—

(1) PROPAC REPORTS ON STUDY OF DRG RATES FOR HOSPITALS IN RURAL AND URBAN AREAS.—The Prospective Payment Assessment Commission shall evaluate the study conducted by the Secretary of Health and Human Services pursuant to section 603(a)(2)(C)(i) of the Social Security Amendments of 1983 (relating to the feasibility, impact, and desirability of eliminating or phasing out separate urban and rural DRG prospective payment rates) and report its conclusions and recommendations to the Congress not later than March 1, 1988.

(2) PROPAC REPORT ON SEPARATE URBAN PAYMENT RATES.—The Prospective Payment Assessment Commission shall evaluate the desirability of maintaining separate DRG prospective payment rates for hospitals located in large urban areas (as defined in section 1886(d)(2)(D)) of the Social Security Act) and in other urban areas, and shall report to Congress on such evaluation not later than January 1, 1989.

(3) REPORT ON ADJUSTMENT FOR NON-LABOR COSTS.—The Prospective Payment Assessment Commission shall perform an analysis to determine the feasibility and appropriateness of adjusting the non-wage-related portion of the adjusted average standardized amounts under section 1886(d)(3) of the Social

Security Act based on area differences in hospitals' costs (other than wage-related costs) and input prices. The Commission shall report to the Congress on such analysis by not later than October 1, 1989.

(i) SPECIAL RULE.—In the case of New England county metropolitan areas, the Secretary of Health and Human Services shall apply the second sentence of section 1886(d)(2)(D) of the Social Security Act, as amended by section 4001(b) of this subtitle, as though 970,000 were substituted for 1,000,000. 42 USC 1395ww note.

(j) TECHNICAL CORRECTIONS.—

(1) Section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)) is amended by inserting a comma after "educational activities". 101 STAT. 1330-59

(2) Section 1886(d)(5)(C)(i)(II) of such Act (42 U.S.C. 1395ww(d)(5)(C)(i)(II)) is amended by inserting "index" after "case mix" both places it appears.

(3) Section 1886(d)(5)(F) of such Act (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(A) in clause (i)(II), by striking "such revenues" the second place it appears and inserting "such net inpatient care revenues", and

(B) in clause (iv)(I), by striking "subclause (III)" and inserting "clause (v)".

(4) Section 1886(d)(9) of such Act (42 U.S.C. 1395ww(d)(9)) is amended by moving the matter in subparagraph (B) before clause (i) 2 ems to the left so the left margin of such matter is aligned with the left margin of the matter in subparagraph (A) before clause (i).

(5) Section 1886(h)(4)(C) of such Act (42 U.S.C. 1395ww(h)(4)(C)) is amended by striking "subparagraph (E)" and inserting "subparagraph (D)".

(6) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986—

(A) subparagraph (B) of section 9307(c)(1) of such Act is amended to read as follows: 42 USC 1395ww.

"(B) in paragraph (2)—

"(i) by striking subparagraphs (A) and (B),

"(ii) in subparagraph (C), by striking 'such subsection' and inserting 'of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)' and by redesignating such subparagraph as subparagraph (A), and

"(iii) by amending subparagraph (D) to read as follows:

" '(B) The amendments made by subparagraph (A) apply to discharges occurring on or after May 1, 1986.' "; 42 USC 1395ww note.

(B) section 9302(a)(2)(C) of such Act is amended by striking "1866(e)(5)" and inserting "1886(e)(5)"; 42 USC 1395ww.

(C) section 9320(h)(1) of such Act is amended by striking "before the period" and inserting "before the semicolon"; 42 USC 1395y.

(D) section 9321(c)(4) of such Act is amended by striking "second sentence" and all that follows through "operating costs" and inserting "second sentence of section 1886(a)(4) of the Social Security Act, from the term 'operating costs'"; 42 USC 1395ww note.

(E) the second sentence of section 9335(d)(2) of such Act is amended by striking "establish" and inserting "designate"; and 42 USC 1395rr note.

(F) section 9321(c)(3) of such Act is amended by inserting "section 1861(v)(1)(O) and 1886(g)(2) of the Social Security Act and" after "implementing". 42 USC 1395ww note.

(7) Section 218(v) of the Social Security Act (42 U.S.C. 418(v)) is amended by striking paragraph (3).

(8) Effective as if included in the Tax Reform Act of 1986, section 1895(d)(6)(C) of such Act is amended by striking "603" and inserting "2203". 42 USC 300bb-6.

101 STAT. 1330-60

PART 2—PROVISIONS RELATING TO PARTS A AND B

Subpart A—Health Maintenance Organization Reforms

SEC. 4011. BENEFICIARY PROTECTION.

(a) POST-CONTRACT PROTECTION FOR ENROLLEES WITH ELIGIBLE ORGANIZATIONS UNDER [26] THE MEDICARE PROGRAM.—

(1) Section 1876(c)(3) of such Act (42 U.S.C. 1395mm(b)(2)) is amended by adding at the end the following new subparagraph:

"(F) Each eligible organization that provides items and services pursuant to a contract under this section shall provide assurances to the Secretary that in the event the organization ceases to provide such items and services, the organization shall provide or arrange for supplemental coverage of benefits under this title related to a pre-existing condition with respect to any exclusion period, to all individuals enrolled with the entity who receive benefits under this title, for the lesser of six months or the duration of such period.".

42 USC 1395mm note.

(2) The amendment made by paragraph (1) shall apply with respect to contracts entered into or renewed on or after the date of enactment of this Act.

(b) NOTIFICATION OF TERMINATION OF RISK-SHARING CONTRACT.—

(1) Section 1876(c)(3) of such Act, as amended by subsection (a)(1), is further amended by adding at the end the following new subparagraph:

"(G)(i) Each eligible organization having a risk-sharing contract under this section shall notify individuals eligible to enroll with the organization under this section and individuals enrolled with the organization under this section that—

"(I) the organization is authorized by law to terminate or refuse to renew the contract, and

"(II) termination or nonrenewal of the contract may result in termination of the enrollments of individuals enrolled with the organization under this section.

"(ii) The notice required by clause (i) shall be included in—

"(I) any marketing materials described in subparagraph (C) that are distributed by an eligible organization to individuals eligible to enroll under this section with the organization, and

"(II) any explanation provided to enrollees by the organization pursuant to subparagraph (E).".

42 USC 1395mm note.

(2) The amendment made by paragraph (1) shall apply to contracts entered into or renewed on or after the date of the enactment of this Act.

SEC. 4012. PAYMENTS FOR HOSPITAL SERVICES.

(a) IN GENERAL.—Section 1866(a)(1) of such Act (42 U.S.C. 1395cc(a)(1)) is amended by inserting immediately after subparagraph (N) the following new subparagraph:

Contracts.

101 STAT. 1330-61

"(O) in the case of hospitals and skilled nursing facilities, to accept as payment in full for inpatient hospital and extended care services that are covered under this title and are furnished to any individual enrolled with an eligible organization with a risk-sharing contract under section 1876 the amounts (in the case of hospitals) or limits (in the case of skilled nursing facilities) that would be made as a payment in full under this title if the individuals were not so enrolled.".

(b) REPEAL.—Section 1876(g)(4) of the Social Security Act (42 U.S.C. 1395mm(g)(4)) is repealed.

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[26] Copy read "UNDER".

(c) IMPLEMENTATION.—The Secretary of Health and Human Services shall provide (in machine readable form) to eligible organizations under section 1876 of the Social Security Act medicare DRG rates for payments required by the amendment made by paragraph (2) and data on cost pass-through items for all inpatient services provided to medicare beneficiaries enrolled with such organizations. 42 USC 1395mm note.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to admissions occurring on or after April 1, 1988, or, if later, the earliest date the Secretary can provide the information required under subsection (c) in machine readable form. 42 USC 1395mm note.

SEC. 4013. TWO-YEAR EXTENSION ON PERIOD FOR BENEFIT STABILIZATION.

(a) IN GENERAL.—Section 1876(g)(5) of the Social Security Act (42 U.S.C. 1395mm(g)(5)), as added by the amendment made by section 2350(a)(2) of the Deficit Reduction Act of 1984, is amended by striking "four" and inserting "six".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of the amendment made by section 2350(a)(2) of the Deficit Reduction Act of 1984. 42 USC 1395mm note.

SEC. 4014. CIVIL MONEY PENALTIES AND INTERMEDIATE SANCTIONS AGAINST HMOS/CMPS.

Section 1876(i)(6) of the Social Security Act (42 U.S.C. 1395mm) is amended to read as follows:

"(6)(A) If the Secretary determines that an eligible organization with a contract under this section— Contracts.

"(i) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(ii) imposes premiums on individuals enrolled under this section in excess of the premiums permitted;

"(iii) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this section;

"(iv) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this section) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

"(v) misrepresents or falsifies information that is furnished—

"(I) to the Secretary under this section, or

"(II) to an individual or to any other entity under this section; or

"(vi) fails to comply with the requirements of subsection (g)(6)(A);

the Secretary may provide for any of the remedies described in subparagraph (B).

101 STAT. 1330-62

"(B) The remedies described in this subparagraph are—

"(i) civil money penalties of not more than $25,000 for each determination under subparagraph (A) or, with respect to a determination under clause (iv) or (v)(I), of not more than $100,000 for each such determination,

"(ii) suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(iii) suspension of payment to the organization under this section for individuals enrolled after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (i) in the same manner as they apply to a civil money penalty under that section.".

42 USC 1395mm note.

SEC. 4015. MEDICARE PAYMENT DEMONSTRATION PROJECTS.

Contracts.

(a) MEDICARE INSURED GROUP DEMONSTRATION PROJECTS.—

(1) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") may provide for capitation demonstration projects (in this subsection referred to as "projects") with an entity which is an eligible organization with a contract with the Secretary under section 1876 of the Social Security Act or which meets the restrictions and requirements of this subsection. The Secretary may not approve a project unless it meets the requirements of this subsection.

(2) The Secretary may not conduct more than 3 projects and may not expend, from funds under title XVIII of the Social Security Act, more than $600,000,000 in any fiscal year for all such projects.

(3) The per capita rate of payment under a project—

(A) may be based on the adjusted average per capita cost (as defined in section 1876(a)(4) of the Social Security Act) determined only with respect to the group of individuals involved (rather than with respect to medicare beneficiaries generally), but

(B) the rate of payment may not exceed the lesser of—

(i) 95 percent of the adjusted average per capita cost described in subparagraph (A), or

(ii)(I) in the 4th year or 5th year of a project, 115 percent of the adjusted average per capita cost (as defined in section 1876(a)(4) of such Act) for classes of individuals described in section 1876(a)(1)(B) of that Act, or

(II) in any subsequent year of a project, 95 percent of the adjusted average per capita cost (as defined in section 1876(a)(4)) for such classes.

(4) If the payment amounts made to a project are greater than the costs of the project (as determined by the Secretary or, if applicable, on the basis of adjusted community rates described in section 1876(e)(3) of the Social Security Act), the project—

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(A) may retain the surplus, but not to exceed 5 percent of the average adjusted per capita cost determined in accordance with paragraph (3)(A), and

(B) with respect to any additional surplus not retained by the project, shall apply such surplus to additional benefits for individuals served by the project or return such surplus to the Secretary.

(5) Enrollment under the project shall be voluntary. Individuals enrolled with the project may terminate such enrollment as of the beginning of the first calendar month following the date on which the request is made for such termination. Upon such termination, such individuals shall retain the same rights to other health benefits that such individuals would have had if they had never enrolled with the project without any exclusion or waiting period for pre-existing conditions.

(6) The requirements of—

(A) subsection (c)(3)(C) (relating to dissemination of information),

(B) subsection (c)(3)(E) (annual statement of rights),

(C) subsection (c)(5) (grievance procedures),

(D) subsection (c)(6) (on-going quality),

(E) subsection (g)(6) (relating to prompt payment of claims),

(F) subsection (i)(3)(A) and (B) (relating to access to information and termination notices),

(G) subsection (i)(6) (relating to providing necessary services), and

(H) subsection (i)(7) (relating to agreements with peer review organizations), Contracts.

of section 1876 of the Social Security Act shall apply to a project in the same manner as they apply to eligible organizations with risk-sharing contracts under such section.

(7) The benefits provided under a project must be at least actuarially equivalent to the combination of the benefits available under title XVIII of the Social Security Act and the benefits available through any alternative plans in which the individual can enroll through the the employer. The project shall guarantee the actuarial value of benefits available under the employer plan for the duration of the project.

(8) A project shall comply with all applicable State laws.

(9) The Secretary may not authorize a project unless the entity offering the project demonstrates to the satisfaction of the Secretary that it has the necessary financial reserves to pay for any liability for benefits under the project (including those liabilities for health benefits under medicare and any supplemental benefits).

(10) The Comptroller General shall monitor projects under this subsection and shall report periodically (not less often than once every year) to the Committee on Finance of the Senate and the Committee on Energy and Commerce and Committee on Ways and Means of the House of Representatives on the status of such projects and the affect on such projects of the requirements of this section and shall submit a final report to each such committee on the results of such projects. Reports.

(b) PAYMENT METHODOLOGY REFORM DEMONSTRATIONS PROJECTS.—

(1) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") is specifically authorized to conduct demonstration projects under this subsection for the purpose of testing alternative payment methodologies pertaining to capitation payments under title XVIII of the Social Security Act, including— 101 STAT. 1330-64

(A) computing adjustments to the average per capita cost under section 1876 of such Act on the basis of health status or prior utilization of services, and

(B) accounting for geographic variations in cost in the adjusted average per capita costs applicable to an eligible organization under such section which differs from payments currently provided on a county-by-county basis.

(2) No project may be conducted under this subsection—

(A) with an entity which is not an eligible organization (as defined in section 1876(b) of the Social Security Act), and

(B) unless the project meets all the requirements of subsections (c) and (i)(3) of section 1876 of such Act.

(3) There are authorized to be appropriated to carry out projects under this subsection $5,000,000 in each of fiscal years 1989 and 1990. Appropriation authorization.

(c) APPLICATION OF PROVISIONS.—The provisions of subsection (a)(2) and the first sentence of subsection (b) of section 402 of the Social Security Amendments of 1967 shall apply to the demonstration projects under this section in the same manner as they apply to experiments under subsection (a)(1) of that section.

SEC. 4016. DELAY IN EFFECTIVE DATE IN PHYSICIAN INCENTIVE RULES FOR HEALTH MAINTENANCE ORGANIZATIONS. 42 USC 1320a-7a note.

Section 9313(c)(2)(B) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "April 1, 1989" and inserting "April 1, 1990". 100 Stat. 2002.

42 USC 1395mm note.

SEC. 4017. GAO STUDY AND REPORTS ON MEDICARE CAPITATION.

(a) STUDY.—The Comptroller General shall conduct a study on medicare capitation rates that shall include an analysis and assessment of—

(1) the current method for computing per capita rates of payment under section 1876 of the Social Security Act (including the method for determining the United States per capita cost);

(2) the method for establishing relative costs for geographic areas and the data used to establish age, sex, and other weighting factors;

(3) ways to refine the calculation of adjusted average per capita costs under section 1876 of such Act (including making adjustments for health status or prior utilization of services and improvements in the definition of geographic areas);

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(4) the extent to which individuals enrolled with organizations with a risk-sharing contract with the Secretary under section 1876 of such Act differ in utilization and cost from fee-for-service beneficiaries and ways for modifying enrollment patterns through program changes or for reflecting the differences in rates through group experience rating or other means;

(5) approaches for limiting the liability of the contracting organization under section 1876 of such Act in catastrophic cases;

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(6) ways of establishing capitation rates on a basis other than fee-for-service experience in areas with high prepaid market penetration; and

(7) methods for providing the rate levels necessary to maintain access to quality prepaid services in rural or medically underserved areas (while maintaining cost savings).

(b) REPORTS.—

(1) Not later than January 1 of 1989 and 1990, the Comptroller General shall submit to the Committee on Finance of the Senate and the Committee on Energy and Commerce and Committee on Ways and Means of the House of Representatives interim reports on the progress of the study conducted under subsection (a).

(2) Not later than January 1, 1991, the Comptroller General shall submit to each such committee a final report on the results of such study.

SEC. 4018. SPECIAL RULES.

(a) ASSIGNMENT OF MEMBERS FOR HIP HEALTH MAINTENANCE ORGANIZATION.—Section 1876(f) of such Act (42 U.S.C. 1395mm(f)) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3)(A) An eligible organization described in subparagraph (B) may elect, for purposes of determining the compliance of a subdivision, subsidiary, or affiliate described in subparagraph (B)(iii) with the requirement of paragraph (1) for the period before October 1, 1992, to have members of the subdivision, subsidiary, or affiliate considered to be members of the parent organization.

"(B) An eligible organization described in this subparagraph is an eligible organization which—

"(i) is described in section 1903(m)(2)(B)(iii);

"(ii) has members who have a collectively bargained contractual right to obtain health benefits from the organization;

Contracts.

"(iii) elects to provide benefits under a risk-sharing contract to individuals residing in a service area, who have a collectively bargained contractual right to obtain benefits from the organization, through a subdivision, subsidiary, or affiliate which itself is an eligible organization serving the area and which is owned or controlled by the parent eligible organization; and

"(iv) has assumed any risk of insolvency and quality assurance with respect to individuals receiving benefits through such a subdivision, subsidiary, or affiliate.".

(b) EXTENSION OF WAIVERS FOR SOCIAL HEALTH MAINTENANCE ORGANIZATIONS.—

(1) The Secretary of Health and Human Services shall extend without interruption, through September 30, 1992, the approval of waivers granted under subsection (a) of section 2355 of the Deficit Reduction Act of 1984 for the demonstration project described in subsection (b) of that section, subject to the terms and conditions (other than duration of the project) established under that section (as amended by paragraph (2) of this subsection).

(2) Section 2355(b)(5) of the Deficit Reduction Act of 1984 is amended by inserting "and in succeeding years" after "third year". 98 Stat. 1103.

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(3) Section 2355(d)(2) of the Deficit Reduction Act of 1984 is amended by striking "final" and inserting "interim".

(4) The Secretary of Health and Human Services shall submit a final report to the Congress on the project referred to in paragraph (1) not later than March 31, 1993. Reports.

(c) TREATMENT OF MICHIGAN BLUE CARE HMO NETWORK UNDER [27] 50 PERCENT RULE.—Blue Care, Inc., a nonprofit corporation which is indirectly owned and operated by Blue Cross and Blue Shield of Michigan, Inc. and which enrolls individuals for the purpose of providing them with health care services through assignment to health maintenance organizations which are indirectly or wholly owned and operated by Blue Cross and Blue Shield of Michigan, Inc., is deemed to meet the requirement of section 1876(f)(1) of the Social Security Act (relating to limitation on enrollment of medicare and medicaid beneficiaries with an eligible organization) if—

(1) such requirement would be met if applied to all individuals enrolled with (or otherwise assigned to) each of such health maintenance organizations, and

(2) not more than 20 percent of the number of individuals who are members of (or otherwise assigned to) each such organization consists of individuals who are entitled to benefits under title XVIII of the Social Security Act.

(d) TEMPORARY WAIVER FOR WATTS HEALTH FOUNDATION.—Section 9312(c)(3) of the Omnibus Budget Reconciliation Act of 1986 is amended by adding at the end the following new subparagraph: 42 USC 1395mm note.

"(D) TREATMENT OF CERTAIN WAIVERS.—In the case of an eligible organization (or successor organization) that is described in clauses (i) and (ii) of subparagraph (C) and that received a grant or grants totaling at least $3,000,000 in fiscal year 1987 under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act— Grants.

"(i) before January 1, 1990, section 1876(f) of the Social Security Act shall not apply to the organization;

"(ii) beginning on January 1, 1990, the Secretary of Health and Human Services shall waive the requirement of such section with respect to the organization if—

"(I) before such date, the organization has submitted to the Secretary a schedule for the organization to comply with the requirement of section 1876(f)(1) of such Act, and the Secretary has found such schedule to be reasonable and has approved such schedule; and

"(II) periodically after such date, the Secretary reviews the organization's compliance with such schedule and determines that the organization has

[27] Copy read "UNDER".

complied, or made significant progress towards compliance, with such schedule; and

"(iii) after January 1, 1990, if the Secretary has approved a schedule under clause (ii)(I) and has determined, in a periodic review under clause (ii)(II), that the organization has not complied, or made significant progress towards compliance, with such schedule, the Secretary may provide for a sanction described in section 1876(f)(3) of the Social Security Act effective with respect to individuals enrolling with the organization after the date the Secretary notifies the organization of such noncompliance.".

101 STAT. 1330-67

Subpart B—Home Health Quality

SEC. 4021. CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES.

(a) DEFINITION OF HOME HEALTH AGENCY.—Section 1861(o)(6) of the Social Security Act (42 U.S.C. 1395x(o)(6)) is amended by inserting "the conditions of participation specified in section 1891(a) and" after "meets".

(b) CONDITIONS OF PARTICIPATION.—Title XVIII of such Act is amended by adding at the end the following new section:

"CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES; HOME HEALTH QUALITY

42 USC 1395bbb.

"SEC. 1891. (a) The conditions of participation that a home health agency is required to meet under this subsection are as follows:

"(1) The agency protects and promotes the rights of each individual under its care, including each of the following rights:

"(A) The right to be fully informed in advance about the care and treatment to be provided by the agency, to be fully informed in advance of any changes in the care or treatment to be provided by the agency that may affect the individual's well-being, and (except with respect to an individual adjudged incompetent) to participate in planning care and treatment or changes in care or treatment.

"(B) The right to voice grievances with respect to treatment or care that is (or fails to be) furnished without discrimination or reprisal for voicing grievances.

"(C) The right to confidentiality of the clinical records described in section 1861(o)(3).

"(D) The right to have one's property treated with respect.

"(E) The right to be fully informed orally and in writing (in advance of coming under the care of the agency) of—

"(i) all items and services furnished by (or under arrangements with) the agency for which payment may be made under this title,

"(ii) the coverage available for such items and services under this title, title XIX, and any other Federal program of which the agency is reasonably aware,

"(iii) any charges for items and services not covered under this title and any charges the individual may have to pay with respect to items and services furnished by (or under arrangements with) the agency, and

"(iv) any changes in the charges or items and services described in clause (i), (ii), or (iii).

"(F) The right to be fully informed in writing (in advance of coming under the care of the agency) of the individual's rights and obligations under this title.

"(G) The right to be informed of the availability of the State home health agency hot-line established under section 1864(a). 101 STAT. 1330-68

"(2) The agency notifies the State entity responsible for the licensing or certification of the agency of a change in—

"(A) the persons with an ownership or control interest (as defined in section 1124(a)(3)) in the agency,

"(B) the persons who are officers, directors, agents, or managing employees (as defined in section 1126(b)) of the agency, and

"(C) the corporation, association, or other company responsible for the management of the agency.

Such notice shall be given at the time of the change and shall include the identity of each new person or company described in the previous sentence.

"(3)(A) The agency must not use as a home health aide (on a full-time, temporary, per diem, or other basis), any individual who is not a licensed health care professional (as defined in subparagraph (F)) to provide items or services described in section 1861(m) on or after January 1, 1990, unless the individual—

"(i) has completed a training and competency evaluation program, or a competency evaluation program, that meets the minimum standards established by the Secretary under subparagraph (D), and

"(ii) is competent to provide such items and services.

For purposes of clause (i), an individual is not considered to have completed a training and competency evaluation program, or a competency evaluation program if, since the individual's most recent completion of such a program, there has been a continuous period of 24 consecutive months during none of which the individual provided items and services described in section 1861(m) for compensation.

"(B)(i) The agency must provide, with respect to individuals used as a home health aide by the agency as of July 1, 1989, for a competency evaluation program (as described in subparagraph (A)(i)) and such preparation as may be necessary for the individual to complete such a program by January 1, 1990.

"(ii) The agency must provide such regular performance review and regular in-service education as assures that individuals used to provide items and services described in section 1861(m) are competent to provide those items and services.

"(C) The agency must not permit an individual, other than in a training and competency evaluation program that meets the minimum standards established by the Secretary under subparagraph (D), to provide items or services of a type for which the individual has not demonstrated competency.

"(D)(i) The Secretary shall establish minimum standards for the programs described in subparagraph (A) by not later than October 1, 1988.

"(ii) Such standards shall include the content of the curriculum, minimum hours of training, qualification of instructors, and procedures for determination of competency.

"(iii) Such standards may permit approval of programs offered by or in home health agencies, as well as outside agencies (including employee organizations), and of programs in effect on the date of the enactment of this section; except that they may not provide for the approval of a program offered by or in a home health agency which has been determined to be out of compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) within the previous 2 years. 101 STAT. 1330-69

"(iv) Such standards shall permit a determination that an individual who has completed (before July 1, 1989) a training and competency evaluation program or a competency evaluation program shall be deemed for purposes of subparagraph (A) to have completed a program that is approved by the Secretary

under the standards established under this subparagraph if the Secretary determines that, at the time the program was offered, the program met such standards.

"(E) In this paragraph, the term 'home health aide' means any individual who provides the items and services described in section 1861(m), but does not include an individual—

"(i) who is a licensed health professional (as defined in subparagraph (F)), or

"(ii) who volunteers to provide such services without monetary compensation.

"(F) In this paragraph, the term 'licensed health professional' means a physician, physician assistant, nurse practitioner, physical, speech, or occupational therapist, registered professional nurse, licensed practical nurse, or licensed or certified social worker.

"(4) With respect to durable medical equipment furnished to individuals for whom the agency provides items and services, suppliers of such equipment do not use (on a full-time, temporary, per diem, or other basis) any individual who does not meet minimum training standards (established by the Secretary by October 1, 1988) for the demonstration and use of any such equipment furnished to individuals with respect to whom payments may be made under this title.

"(5) The agency includes an individual's plan of care required under section 1861(m) as part of the clinical records described in section 1861(o)(3).

"(6) The agency operates and provides services in compliance with all applicable Federal, State, and local laws and regulations (including the requirements of section 1124) and with accepted professional standards and principles which apply to professionals providing items and services in such an agency.

"(b) It is the duty and responsibility of the Secretary to assure that the conditions of participation and requirements specified in or pursuant to section 1861(o) and subsection (a) of this section and the enforcement of such conditions and requirements are adequate to protect the health and safety of individuals under the care of a home health agency and to promote the effective and efficient use of public moneys.".

42 USC 1395x note.

(c) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by subsections (a) and (b) shall apply to home health agencies as of the first day of the 18th calendar month that begins after the date of the enactment of this Act.

SEC. 4022. STANDARD AND EXTENDED SURVEY.

(a) IN GENERAL.—Section 1891 of the Social Security Act (as added by section 4021) is amended by adding at the end the following new subsections:

101 STAT. 1330-70

"(c)(1) Any agreement entered into or renewed by the Secretary pursuant to section 1864 relating to home health agencies shall provide that the appropriate State or local agency shall conduct, without any prior notice, a standard survey of each home health agency. Any individual who notifies (or causes to be notified) a home health agency of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of not to exceed $2,000. The Secretary shall provide for imposition of civil money penalties under this clause in a manner similar to that for the imposition of civil money penalties under section 1128A. The Secretary shall review each State's or local agency's procedures for scheduling and conduct of standard surveys to assure that the State or agency has taken all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

"(2)(A) Except as provided in subparagraph (B), each home health agency shall be subject to a standard survey not later than 15

months after the date of the previous standard survey conducted under this paragraph. The statewide[27a] average interval between standard surveys of any home health agency shall not exceed 12 months.

"(B) If not otherwise conducted under subparagraph (A), a standard survey (or an abbreviated standard survey) of an agency—

"(i) may be conducted within 2 months of any change of ownership, administration, or management of the agency to determine whether the change has resulted in any decline in the quality of care furnished by the agency, and

"(ii) shall be conducted within 2 months of when a significant number of complaints have been reported with respect to the agency to the Secretary, the State, the entity responsible for the licensing of the agency, the State or local agency responsible for maintaining a toll-free hotline and investigative unit (under section 1864(a)), or any other appropriate Federal, State, or local agency.

"(C) A standard survey conducted under this paragraph with respect to a home health agency—

"(i) shall include (to the extent practicable), for a case-mix stratified sample of individuals furnished items or services by the agency—

"(I) visits to the homes of such individuals, but only with the consent of such individuals, for the purpose of evaluating (in accordance with a standardized reproducible assessment instrument (or instruments) approved by the Secretary under subsection (d)) the extent to which the quality and scope of items and services furnished by the agency attained and maintained the highest practicable functional capacity of each such individual as reflected in such individual's written plan of care required under section 1861(m) and clinical records required under section 1861(o)(3); and

"(II) a survey of the quality of care and services furnished by the agency as measured by indicators of medical, nursing, and rehabilitative care;

"(ii) shall be based upon a protocol that is developed, tested, and validated by the Secretary not later than January 1, 1989; and

"(iii) shall be conducted by an individual— 101 STAT. 1330-71

"(I) who meets minimum qualifications established by the Secretary not later than July 1, 1989,

"(II) who is not serving (or has not served within the previous 2 years) as a member of the staff of, or as a consultant to, the home health agency surveyed respecting compliance with the conditions of participation specified in or pursuant to section 1861(o) or subsection (a) of this section, and

"(III) who has no personal or familial financial interest in the home health agency surveyed.

"(D) Each home health agency that is found, under a standard survey, to have provided substandard care shall be subject to an extended survey to review and identify the policies and procedures which produced such substandard care and to determine whether the agency has complied with the conditions of participation specified in or pursuant to section 1861(o) or subsection (a) of this section. Any other agency may, at the Secretary's or State's discretion, be subject to such an extended survey (or a partial extended survey). The extended survey shall be conducted immediately after the standard survey (or, if not practical, not later than 2 weeks after the date of completion of the standard survey).

"(E) Nothing in this paragraph shall be construed as requiring an extended (or partial extended) survey as a prerequisite to imposing a sanction against an agency under subsection (e) on the basis of the findings of a standard survey. .

[27a] Copy read "Statewide".

"(d)(1) Not later than January 1, 1989, the Secretary shall designate an assessment instrument (or instruments) for use by an agency in complying with subsection (c)(2)(C)(I).

"(2)(A) Not later than January 1, 1991, the Secretary shall—

"(i) evaluate the assessment process,

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"(ii) report to Congress on the results of such evaluation, and

"(iii) based on such evaluation, make such modifications in the assessment process as the Secretary determines are appropriate.

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"(B) The Secretary shall periodically update the evaluation conducted under subparagraph (A), report the results of such update to Congress, and, based on such update, make such modifications in the assessment process as the Secretary determines are appropriate.

"(3) The Secretary shall provide for the comprehensive training of State and Federal surveyors in matters relating to the performance of standard and extended surveys under this section, including the use of any assessment instrument (or instruments) designated under paragraph (1).".

42 USC 1395bbb note.

(b) EFFECTIVE DATE.—Except as otherwise specifically provided in section 1891(d) of the Social Security Act (as added by subsection (a)), the amendment made by subsection (a) shall become effective on the first day of the 18th calendar month to begin after the date of the enactment of this Act.

SEC. 4023. ENFORCEMENT.

Section 1891 of the Social Security Act (as added by section 4021 and amended by section 4022) is further amended by adding at the end the following new subsections:

"(e)(1) If the Secretary determines on the basis of a standard, extended, or partial extended survey or otherwise, that a home health agency that is certified for participation under this title is no

101 STAT. 1330-72

longer in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) and determines that the deficiencies involved immediately jeopardize the health and safety of the individuals to whom the agency furnishes items and services, the Secretary shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in subsection (f)(2)(A)(iii) or terminate the certification of the agency, and may provide, in addition, for 1 or more of the other remedies described in subsection (f)(2)(A).

"(2) If the Secretary determines on the basis of a standard, extended, or partial extended survey or otherwise, that a home health agency that is certified for participation under this title is no longer in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) and determines that the deficiencies involved do not immediately jeopardize the health and safety of the individuals to whom the agency furnishes items and services, the Secretary may (for a period not to exceed 6 months) impose intermediate sanctions developed pursuant to subsection (f), in lieu of terminating the certification of the agency. If, after such a period of intermediate sanctions, the agency is still no longer in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a), the Secretary shall terminate the certification of the agency.

"(3) If the Secretary determines that a home health agency that is certified for participation under this title is in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) but, as of a previous period, did not meet such requirements, the Secretary may provide for a civil money penalty under subsection (f)(2)(A)(i) for the days in which it finds that the agency was not in compliance with such requirements.

"(4) The Secretary may continue payments under this title with respect to a home health agency not in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) over a period of not longer than 6 months, if—

"(A) the State or local survey agency finds that it is more appropriate to take alternative action to assure compliance of the agency with the requirements than to terminate the certification of the agency,

"(B) the agency has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action, and

"(C) the agency agrees to repay to the Federal Government payments received under this subparagraph if the corrective action is not taken in accordance with the approved plan and timetable.

The Secretary shall establish guidelines for approval of corrective actions requested by home health agencies under this subparagraph.

"(f)(1) The Secretary shall develop and implement, by not later than April 1, 1989—

"(A) a range of intermediate sanctions to apply to home health agencies under the conditions described in subsection (e), and

"(B) appropriate procedures for appealing determinations relating to the imposition of such sanctions.

"(2)(A) The intermediate sanctions developed under paragraph (1) shall include—

"(i) civil money penalties for each day of noncompliance, 101 STAT. 1330-73

"(ii) suspension of all or part of the payments to which a home health agency would otherwise be entitled under this title with respect to items and services furnished by a home health agency on or after the date on which the Secretary determines that intermediate sanctions should be imposed pursuant to subsection (e)(2), and

"(iii) the appointment of temporary management to oversee the operation of the home health agency and to protect and assure the health and safety of the individuals under the care of the agency while improvements are made in order to bring the agency into compliance with all the requirements specified in or pursuant to section 1861(o) or subsection (a).

The temporary management under clause (iii) shall not be terminated until the Secretary has determined that the agency has the management capability to ensure continued compliance with all the requirements referred to in that clause.

"(B) The sanctions specified in subparagraph (A) are in addition to sanctions otherwise available under State or Federal law and shall not be construed as limiting other remedies, including any remedy available to an individual at common law.

"(C) A finding to suspend payment under subparagraph (A)(ii) shall terminate when the Secretary finds that the home health agency is in substantial compliance with all the requirements specified in or pursuant to section 1861(o) and subsection (a).

"(3) The Secretary shall develop and implement, by not later than April 1, 1989, specific procedures with respect to the conditions under which each of the intermediate sanctions developed under paragraph (1) is to be applied, including the amount of any fines and the severity of each of these sanctions. Such procedures shall be designed so as to minimize the time between identification of deficiencies and imposition of these sanctions and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.".

(b) EFFECTIVE DATE.—Except as otherwise specifically provided in subsections (e) and (f) of section 1891 of the Social Security Act (as added by subsection (a)), the amendment made by subsection (a) shall become effective on the first day of the 18th calendar month to begin after the date of the enactment of this Act. 42 USC 1395bbb note.

SEC. 4024. REQUIREMENT THAT INDIVIDUAL BE CONFINED TO HOME.

(a) PART A.—Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) is amended by adding at the end the following: "For

purposes of paragraph (2)(C), an individual shall be considered to be 'confined to his home' if the individual has a condition, due to an illness or injury, that restricts the ability of the individual to leave his or her home except with the assistance of another individual or the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker), or if the individual has a condition such that leaving his or her home is medically contraindicated. While an individual does not have to be bedridden to be considered 'confined to his home', the condition of the individual should be such that there exists a normal inability to leave home, that leaving home requires a considerable and taxing effort by the individual, and that absences of the individual from home are infrequent or of relatively short duration, or are attributable to the need to receive medical treatment.".

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(b) PART B.—Section 1835(a) of such Act (42 U.S.C. 1395n(a)) is amended by adding at the end the following: "For purposes of paragraph (2)(A), an individual shall be considered to be 'confined to his home' if the individual has a condition, due to an illness or injury, that restricts the ability of the individual to leave his or her home except with the assistance of another individual or the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker), or if the individual has a condition such that leaving his or her home is medically contraindicated. While an individual does not have to be bedridden to be considered 'confined to his home', the condition of the individual should be such that there exists a normal inability to leave home, that leaving home requires a considerable and taxing effort by the individual, and that absences of the individual from home are infrequent or of relatively short duration, or are attributable to the need to receive medical treatment.".

42 USC 1395f note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to items and services provided on or after January 1, 1988.

SEC. 4025. HOME HEALTH TOLL-FREE HOTLINE AND INVESTIGATIVE UNIT.

(a) IN GENERAL.—Section 1864(a) of the Social Security Act (42 U.S.C. 1395aa(a)) is amended by adding at the end the following: "Any agreement under this subsection shall provide for the appropriate State or local agency to maintain a toll-free hotline (1) to collect, maintain, and continually update information on home health agencies located in the State or locality that are certified to participate in the program established under this title (which information shall include any significant deficiencies found with respect to patient care in the most recent certification survey conducted with respect to the agency, when that survey was completed, whether corrective actions have been taken or are planned, and the sanctions, if any, imposed under this title with respect to the agency) and (2) to receive complaints (and answer questions) with respect to home health agencies in the State or locality. Any such agreement shall provide for such agency to maintain a unit for investigating such complaints that possesses enforcement authority and has access to survey and certification reports, information gathered by any private accreditation agency pursuant to an agreement with the Secretary under section 1864, and consumer medical records (but only with the consent of the consumer or his or her legal representative).".

42 USC 1395aa note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to agreements entered into or renewed on or after the date of enactment of this Act.

SEC. 4026. HOME HEALTH AGENCY COST LIMITS.

(a) DATA USED TO DETERMINE LIMITS.—

(1) Section 1861(v)(1)(L) of the Social Security Act (42 U.S.C.

1395x(v)(1)(L)) is amended by adding at the end the following new clause:

"(iii) In establishing limits under this subparagraph, the Secretary shall—

"(I) utilize a wage index that is based on audited wage data obtained from home health agencies, and

"(II) base such limits on the most recent audited wage data available, which data may be for cost reporting periods beginning no earlier than July 1, 1985.".

(2) The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after July 1, 1988.

42 USC 1395x note.

(b) STUDY OF LIMITS.—The Secretary of Health and Human Services shall study and report to the Congress, not later than June 1, 1988, on—

Reports.

(1) whether the separate schedules of cost limits currently applied to home health agencies under title XVIII of the Social Security Act located in urban and rural areas accurately reflect differences in the costs of urban and rural home health agencies, and

(2) the appropriateness of modifying such limits to take into account the proportion of agency patients who are from urban and rural areas.

SEC. 4027. HOME HEALTH PROSPECTIVE PAYMENT DEMONSTRATION PROJECT.

42 USC 1395n note.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall provide for a demonstration project to develop and test alternative methods of paying home health agencies on a prospective basis for services furnished under the medicare and medicaid programs. The project shall be designed in a manner to enable the Secretary to evaluate the effects of various methods of prospective payment (including payments on a per-visit, per-case, and per-episode basis) on program expenditures, access to, and quality of, home health care, and home health agency operations. The Secretary shall assure that services are first furnished under the project not later than July 1, 1988, and, for this purpose, the Secretary may reinstate a previously awarded contract, or award a sole source contract, to carry out the project.

Contracts.

(b) FUNDING.—The provisions of subsection (a)(2) and the first sentence of subsection (b) of section 402 of the Social Security Amendments of 1967 shall apply to the demonstration project under subsection (a) of this section as they apply to experiments under subsection (a)(1) of that section.

(c) REPORT.—The Secretary shall submit to Congress, not later than one year after the date of the enactment of this Act, an interim report on the demonstration project and, not later than four years after the date of the enactment of this Act, a final report on the results of the project.

Subpart C—Other Provisions

SEC. 4031. PAYMENT CYCLE STANDARDS.

(a) PAYMENT FLOOR STANDARDS.—

(1) Section 1816(c) of the Social Security Act (42 U.S.C. 1395h(c)) is amended by adding at the end the following new paragraph:

"(3)(A) Each agreement under this section shall provide that no payment shall be issued, mailed, or otherwise transmitted with respect to any claim submitted under this title within the applicable number of calendar days after the date on which the claim is received.

"(B) In this paragraph, the term 'applicable number of calendar days' means—

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"(i) with respect to claims received in the 3-month period beginning July 1, 1988, 10 days, and

"(ii) with respect to claims received in the 12-month period beginning October 1, 1988, 14 days.".[27b]

(2) Section 1842(c) of such Act (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

Contracts.

"(3)(A) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall provide that no payment shall be issued, mailed, or otherwise transmitted with respect to any claim submitted under this title within the applicable number of calendar days after the date on which the claim is received.

"(B) In this paragraph, the term 'applicable number of calendar days' means—

"(i) with respect to claims received in the 3-month period beginning July 1, 1988, 10 days, and

"(ii) with respect to claims received in the 12-month period beginning October 1, 1988, 14 days.".[27b]

42 USC 1395h note.

(3)(A) The amendments made by paragraphs (1) and (2) shall apply to claims received on or after July 1, 1988.

Contracts. Regulations.

(B) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816 of the Social Security Act and contracts under section 1842 of such Act, and regulations, to such extent as may be necessary to implement the provisions of this subsection on a timely basis.

42 USC 1395h note.

(b) PROHIBITION OF OTHER POLICIES INTENDED TO SLOW DOWN MEDICARE PAYMENTS.—Notwithstanding any other provision of law, except as specifically provided in this section, the Secretary of Health and Human Services is not authorized to issue, after the date of the enactment of this Act, and before October 1, 1990, any final regulation, instruction, or other policy change which is primarily intended to have the effect of slowing down claims processing, or delaying payment of claims, under title XVIII of the Social Security Act.

42 USC 1395h note.

(c) BUDGET CONSIDERATIONS.—For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this section is a necessary (but secondary) result of a significant policy change.

SEC. 4032. DENIALS AND RECONSIDERATIONS OF CLAIMS FOR HOME HEALTH SERVICES, EXTENDED CARE SERVICES, AND POST-HOSPITAL EXTENDED CARE SERVICES.

(a) NOTIFICATION AND PHYSICIAN REVIEW.—Section 1816 of the Social Security Act (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(j) An agreement with an agency or organization under this section shall require that, with respect to a claim for home health services, extended care services, or post-hospital extended care services submitted by a provider to such agency or organization that is denied, such agency or organization—

"(1) furnish the provider and the individual with respect to whom the claim is made with a written explanation of the denial and of the statutory or regulatory basis for the denial; and

"(2) promptly notify such individual and the provider of

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disposition of such reconsideration.".

(b) PERFORMANCE STANDARDS FOR FISCAL INTERMEDIARIES AND CARRIERS.—Section 1816(f) of such Act (42 U.S.C. 1395h(f)) is amended by adding at the end the following: "Such standards and criteria shall include with respect to claims for services furnished under this part by any provider of services other than a hospital whether such agency or organization is able to process 75 percent of

[27b] Copy read "days."

reconsiderations within 60 days (except in the case of the fiscal year 1989, 66 percent of reconsiderations) and 90 percent of reconsiderations within 90 days and the extent to which its determinations are reversed on appeal.".

(c) EFFECTIVE DATE.— 42 USC 1395h note.

(1)(A) The amendment made by subsection (a) shall apply with respect to claims received on or after January 1, 1988.

(B) The amendment made by subsection (b) shall apply with respect to claims filed on or after October 1, 1988.

(2) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816 and contracts under section 1842 of the Social Security Act, and regulations, to such extent as may be necessary to implement the amendments made by subsections (a) and (b) on a timely basis. Contracts. Regulations.

SEC. 4033. PERMITTING DISABLED INDIVIDUALS TO RENEW ENTITLEMENT TO MEDICARE AFTER GAINFUL EMPLOYMENT WITHOUT A 2-YEAR WAITING PERIOD.

(a) IN GENERAL.—

(1) Section 226(f) of the Social Security Act (42 U.S.C. 426(f)) is amended by inserting before the period at the end the following: ", unless the physical or mental impairment which is the basis for disability is the same as (or directly related to) the physical or mental impairment which served as the basis for disability in such previous period".

(2)(A) The amendment made by subsection (a) shall apply to months beginning after the end of the 60-day period beginning on the date of enactment of this Act. 42 USC 426 note.

(B) The amendment made by subsection (a) shall not apply so as to include (for the purposes described in section 226(f) of the Social Security Act) monthly benefits paid for any month in a previous period (described in that section) that terminated before the end of the 60-day period described in paragraph (1).

SEC. 4034. APPLICATION OF SECONDARY PAYER PROVISIONS TO GOVERNMENTAL ENTITIES.

(a) IN GENERAL.—Section 1862(b)(4)(B)(i) of the Social Security Act (42 U.S.C. 1395y(b)(4)(B)(i)), as added by the amendment made by section 9319(a) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking "section 5000(b) of the Internal Revenue Code of 1986" and inserting "subsection (b) of section 5000 of the Internal Revenue Code of 1986 without regard to subsection (d) of such section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of section 9319(a) of the Omnibus Budget Reconciliation Act of 1986. 42 USC 1395y note.

SEC. 4035. PUBLICATION AND NOTIFICATION OF POLICIES.

(a) REQUIRING PUBLICATION OF INTERMEDIARY AND CARRIER BUDGET METHODOLOGY.— Federal Register, publication.

(1) Section 1816(c)(1) of the Social Security Act (42 U.S.C. 1395h(c)(1)) is amended by adding at the end the following sentence: "The Secretary shall cause to have published in the Federal Register, by not later than September 1 before each fiscal year, data, standards, and methodology to be used to establish budgets for fiscal intermediaries under this section for that fiscal year, and shall cause to be published in the Federal Register for public comment, at least 90 days before such data, standards, and methodology are published, the data, standards, and methodology proposed to be used.".

(2) Section 1842(c)(1) of such Act (42 U.S.C. 1395u(c)(1)) is amended by adding at the end the following sentence: "The Secretary shall cause to have published in the Federal Register, by not later than September 1 before each fiscal year, data, standards, and methodology to be used to establish budgets for

carriers under this section for that fiscal year, and shall cause to be published in the Federal Register for public comment, at least 90 days before such data, standards, and methodology are published, the data, standards, and methodology proposed to be used.".

Effective date. 42 USC 1395h note.

(3) The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to budgets for fiscal years beginning with fiscal year 1989.

(b) PUBLICATION AS REGULATIONS OF SIGNIFICANT POLICIES.—Section 1871(a) of such Act (42 U.S.C. 1395hh(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) No rule, requirement, or other statement of policy (other than a national coverage determination) that establishes or changes a substantive legal standard governing the scope of benefits, the payment for services, or the eligibility of individuals, entities, or organizations to furnish or receive services or benefits under this title shall take effect unless it is promulgated by the Secretary by regulation under paragraph (1).".

(c) MISCELLANEOUS PUBLICATION AND INFORMATION ACCESS PROVISIONS.—Section 1871 of such Act (42 U.S.C. 1395hh) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall publish in the Federal Register, not less frequently than every 3 months, a list of all manual instructions, interpretative rules, statements of policy, and guidelines of general applicability which—

"(A) are promulgated to carry out this title, but

"(B) are not published pursuant to subsection (a)(1) and have not been previously published in a list under this subsection.

Effective date.

"(2) Effective June 1, 1988, each fiscal intermediary and carrier administering claims for extended care, post-hospital extended care, home health care, and durable medical equipment benefits under this title shall make available to the public all interpretative materials, guidelines, and clarifications of policies which relate to payments for such benefits.

"(3) The Secretary shall to the extent feasible make such changes in automated data collection and retrieval by the Secretary and fiscal intermediaries with agreements under section 1816 as are necessary to make easily accessible for the Secretary and other appropriate parties a data base which fairly and accurately reflects the provision of extended care, post-hospital extended care and home health care benefits pursuant to this title, including such categories as benefit denials, results of appeals, and other relevant factors, and selectable by such categories and by fiscal intermediary, service provider, and region.".

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SEC. 4036. END-STAGE RENAL DISEASE AMENDMENTS.

(a) IMPLEMENTATION OF PRIMARY PAYER REQUIREMENTS FOR END-STAGE RENAL DISEASE PROGRAM.—

(1) Section 1862(b)(2)(A) of the Social Security Act (42 U.S.C. 1395y(b)(2)(A)) is amended by striking "(ii)" and all that follows through "under this title" and inserting "(ii) can reasonably be expected to be made under such a plan".

Effective date. 42 USC 1395y note.

(2) The amendment made by paragraph (1) shall apply with respect to items and services furnished on or after 30 days after the date of the enactment of this Act.

(b) LIMITATION OF MINIMUM UTILIZATION RATE REQUIREMENT FOR END-STAGE RENAL DISEASE TRANSPLANTATIONS.—The last sentence of section 1881(b)(1) of such Act (42 U.S.C. 1395rr(b)(1)) is amended by striking "covered procedures and for self-dialysis training programs" and inserting "transplantations".

(c) EXTENSION OF DEADLINE FOR ESTABLISHING PROTOCOLS ON REUSE OF DIALYSIS FILTERS AND OTHER DIALYSIS SUPPLIES AS IT RELATES TO THE REUSE OF BLOODLINES.—

(1)(A) Section 9335(k)(2) of the Omnibus Budget Reconciliation

Act of 1986 is amended by inserting "(or July 1, 1988, with respect to protocols that relate to the reuse of bloodlines)" after "October 1, 1987". 42 USC 1395rr note.

(B) The amendment made by subparagraph (A) shall be effective as if included in the enactment of section 9335(k)(2) of the Omnibus Budget Reconciliation Act of 1986. 42 USC 1395rr note.

(2) Section 1881(f)(7)(B) of the Social Security Act (42 U.S.C. 1395rr(f)(7)(B)) is amended by inserting "(or July 1, 1988, with respect to protocols that relate to the reuse of bloodlines)" after "January 1, 1988".

(d) STUDIES OF END-STAGE RENAL DISEASE PROGRAM.— 42 USC 1395rr note.

(1) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall arrange for a study of the end-stage renal disease program within the medicare program.

(2) Among other items, the study shall address—

(A) access to treatment by both individuals eligible for medicare benefits and those not eligible for such benefits;

(B) the quality of care provided to end-stage renal disease beneficiaries, as measured by clinical indicators, functional status of patients, and patient satisfaction;

(C) the effect of reimbursement on quality of treatment;

(D) major epidemiological and demographic changes in the end-stage renal disease population that may affect access to treatment, the quality of care, or the resource requirements of the program; and

(E) the adequacy of existing data systems to monitor these matters on a continuing basis.

(3) The Secretary shall submit to Congress, not later than 3 years after the date of the enactment of this Act, a report on the study. Reports.

(4) The Secretary shall request the National Academy of Sciences, acting through the Institute of Medicine, to submit an application to conduct the study described in this section. If the Academy submits an acceptable application, the Secretary shall enter into an appropriate arrangement with the Academy for the conduct of the study. If the Academy does not submit an acceptable application to conduct the study, the Secretary may request one or more appropriate nonprofit private entities to submit an application to conduct the study and may enter into an appropriate arrangement for the conduct of the study by the entity which submits the best acceptable application. 101 STAT. 1330-80

(5) Section 1881 of the Social Security Act (42 U.S.C. 1395rr) is amended—

(A) in subsection (c)(2)(F), by striking "and subsection (g)",

(B) by striking the last sentence of subsection (c)(6),

(C) by striking subsection (g), and

(D) by redesignating subsection (h), as added by section 20 of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Public Law 100-93), as subsection (g).

SEC. 4037. MEDICARE HEARINGS AND APPEALS. 42 USC 1395ff note.

(a) MAINTAINING CURRENT SYSTEM FOR HEARINGS AND APPEALS.— Any hearing conducted under section 1869(b)(1) of the Social Security Act prior to the earliest of the date on which the Secretary of Health and Human Services submits the report required to be submitted by the Secretary under subsection (b)(1) or September 1 shall be conducted by Administrative Law Judges of the Office of Hearings and Appeals of the Social Security Administration in the same manner as are hearings conducted under section 205(b)(1) of such Act.

(b) STUDY AND REPORT ON USE OF TELEPHONE HEARINGS.—

(1) The Secretary of Health and Human Services and the Comptroller General of the United States shall each conduct a study on holding hearings under section 1869(b)(1) of the Social

Security Act by telephone and shall each report the results of the study not later than 6 months after the date of enactment of this Act.

(2) The studies under paragraph (1) shall focus on whether telephone hearings allow for a full and fair evidentiary hearing, in general, or with respect to any particular category of claims and shall examine the possible improvements to the hearing process (such as cost-effectiveness, convenience to the claimant, and reduction in time under the process) resulting from the use of such hearings as compared to the adoption of other changes to the process (such as expansions in staff and resources).

42 USC 1395ww note.

SEC. 4038. RURAL HEALTH MEDICAL EDUCATION DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into agreements with four sponsoring hospitals submitting applications under this subsection to conduct demonstration projects to assist resident physicians in developing field clinical experience in rural areas.

(b) NATURE OF PROJECT.—Under a demonstration project conducted under subsection (a), a sponsoring hospital entering into an agreement with the Secretary under such subsection shall enter into arrangements with a small rural hospital to provide to such rural hospital, for a period of one to three months of training, physicians (in such number as the agreement under subsection (a) may provide) who have completed one year of residency training.

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(c) SELECTION.—In selecting from among applications submitted under subsection (a), the Secretary shall ensure that four small rural hospitals located in different counties participate in the demonstration project and that—

(1) two of such hospitals are located in rural counties of more than 2,700 square miles (one of which is east of the Mississippi River and one of which is west of such river); and

(2) two of such hospitals are located in rural counties with (as determined by the Secretary) a severe shortage of physicians (one of which is east of the Mississippi River and one of which is west of such river).

(d) CLARIFICATION OF PAYMENT.—For purposes of section 1886 of the Social Security Act—

(1) with respect to subsection (d)(5)(B) of such section, any resident physician participating in the project under subsection (a) for any part of a year shall be treated as if he or she were working at the appropriate sponsoring hospital with an agreement under subsection (a) on September 1 of such year (and shall not be treated as if working at the small rural hospital); and

(2) with respect to subsection (h) of such section, the payment amount permitted under such subsection for a sponsoring hospital with an agreement under subsection (a) shall be increased (for the duration of the project only) by an amount equal to the amount of any direct graduate medical education costs (as defined in paragraph (5) of such subsection (h)) incurred by such hospital in supervising the education and training activities under a project under subsection (a).

(e) DURATION OF PROJECT.—Each demonstration project under subsection (a) shall be commenced not later than six months after the date of enactment of this Act and shall be conducted for a period of three years.

(f) DEFINITION.—In this section, the term "sponsoring hospital" means a hospital that receives payments under sections 1886(d)(5)(B) and 1886(h) of the Social Security Act.

SEC. 4039. MISCELLANEOUS AND TECHNICAL PROVISIONS.

(a) CLARIFICATION OF CRIMINAL PENALTIES FOR WILLFUL MISREPRESENTATIONS.—Subsection (c) of section 1128B of the Social Security

Act (42 U.S.C. 1320a-7(b)),[28] as redesignated by section 4(d) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Public Law 100-93), is amended— 42 USC 1320a-7b.

(1) by striking "institution or facility" each place it appears and inserting "institution, facility, or entity", and

(2) by inserting "(including an eligible organization under section 1876(b))" after "other entity".

(b) PODIATRISTS.—

(1) Section 1861(r)(3) of the Social Security Act (42 U.S.C. 1395x(r)(3)) is amended—

(A) by striking "subsection (s) of this section" and inserting "subsections (k), (m), (p)(1), and (s) of this section and sections 1814(a), 1832(a)(2)(F)(ii), and 1835", and

(B) by striking "; and for the purposes" and all that follows through "which he is legally authorized to perform". 101 STAT. 1330-82

(2) Section 1861(b)(6) of such Act (42 U.S.C. 1395x(b)(6)) is amended by striking "Council on Podiatry Education of the American Podiatry Association" and inserting "Council on Podiatric Medical Education of the American Podiatric Medical Association".

(c) RECOVERY OF PAYMENTS FOR CERTAIN PACEMAKER DEVICES.—

(1) Section 1862(h) of such Act (42 U.S.C. 1395y(h)) is amended—

(A) in paragraph (1)(B), by striking "law," and inserting "law (and any amount paid to a provider under any such warranty),";

(B) in paragraph (1)(D), by striking "(3)," and inserting "(3), in determining the amount subject to repayment under paragraph (2)(C),";

(C) in paragraph (2)—

(i) by striking "and" at the end of subparagraph (A),

(ii) by striking the period at the end of subparagraph (B) and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(C) to make repayment to the Secretary of amounts paid under this title to the provider with respect to any cardiac pacemaker device or lead which has been replaced by the manufacturer, or for which the manufacturer has made payment to the provider, under an express or implied warranty."; and

(D) in paragraph (4)(B)—

(i) by striking "or has" and inserting ", has", and

(ii) by striking "(2)(B)," and inserting "(2)(B), or has failed to make repayment to the Secretary as required under paragraph (2)(C),".

(2) The amendments made by paragraph (1) shall become effective on January 1, 1988. Effective date. 42 USC 1395y note.

(d) EXTEND AND CLARIFY PROHIBITION ON COST SAVINGS POLICIES BEFORE BEGINNING OF FISCAL YEAR.—Notwithstanding any other provision of law, except as required to implement specific provisions required under statute, the Secretary of Health and Human Services is not authorized to issue in final form, after the date of the enactment of this Act and before October 15, 1988, any regulation, instruction, or other policy which is estimated by the Secretary to result in a net reduction in expenditures under title XVIII of the Social Security Act in fiscal year 1989 of more than $50,000,000. 42 USC 1395ww note.

(e) MORATORIUM ON PRIOR AUTHORIZATION FOR HOME HEALTH AND POST-HOSPITAL EXTENDED CARE SERVICES.—The Secretary of Health and Human Services shall not implement any voluntary or mandatory program of prior authorization for home health services, extended care services, or post-hospital extended care services under 42 USC 1395x note.

[28] Copy read "1320a-7b),".

part A or B of title XVIII of the Social Security Act at any time prior to six months after the date on which the Congress receives the report required under section 9305(k)(4) of the Omnibus Budget Reconciliation Act of 1986.

Federal Register, publication. 42 USC 1395x note.

(f) DELAY IN PUBLISHING REGULATIONS WITH RESPECT TO DEEMING THE STATUS OF ENTITIES.—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall not deem any entity to be a provider of services (as defined in section 1861(u) of the Social Security Act) for purposes of title XVIII of such

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(1) on any date prior to 6 months after the date on which the Secretary has published a proposed rule with respect to the deeming of the entity, and

(2) until the Secretary publishes a final rule with respect to the deeming of the entity.

42 USC 1395hh note.

(g) USE OF INTERIM FINAL REGULATIONS.—The Secretary of Health and Human Services shall issue such regulations (on an interim or other basis) as may be necessary to implement this subtitle and the amendments made by this subtitle.

PART 3—RELATING TO PART B

Subpart A—Provisions Relating to Payments for Physicians' Services

SEC. 4041. FREEZE IN PAYMENTS FOR PHYSICIANS' SERVICES; EXTENSION OF SEQUESTER ORDER.

(a) THREE-MONTH FREEZE ON INCREASES IN PHYSICIAN PAYMENTS.—

(1) IN GENERAL.—Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended—

(A) in subsection (b)(4)—

(i) in subparagraph (A), by redesignating clause (v) as clause (vi) and by inserting after clause (iv) the following new clause:

"(v) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the 3-month period beginning January 1, 1988, the Secretary shall not set any level higher than the same level as was set for the 12-month period beginning January 1, 1987.", and

(ii) in subparagraph (B), by adding at the end the following new clause:

"(iii) In determining the reasonable charge under paragraph (3) for physicians' services furnished during the 3-month period beginning January 1, 1988, the customary charges shall be the same customary charges as were recognized under this section for the 12-month period beginning January 1, 1987."; and

(B) in subsection (j)(1)(C), by adding at the end thereof the following new clause:

"(vii) Notwithstanding any other provision of this subparagraph, the maximum allowable actual charge for a particular physician's service furnished by a nonparticipating physician to individuals enrolled under this part during the 3-month period beginning on January 1, 1988, shall be the amount determined under this subparagraph for 1987. The maximum allowable actual charge for any such service otherwise determined under this subparagraph for 1988 shall take effect on April 1, 1988.".

Effective date.

42 USC 1395u note.

(2) EXTENSION OF PHYSICIAN PARTICIPATION AGREEMENTS AND RELATED PROVISIONS.—Notwithstanding any other provision of law—

(A) subject to the last sentence of this paragraph, each agreement with a participating physician in effect on December 31, 1987, under section 1842(h)(1) of the Social Security Act shall remain in effect for the 3-month period beginning on January 1, 1988;

(B) the effective period for agreements under such section entered into for 1988 shall be the nine-month period beginning on April 1, 1988, and the Secretary shall provide an opportunity for physicians to enroll as participating physicians prior to April 1, 1988;

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(C) instead of publishing, under section 1842(h)(4) of the Social Security Act at the beginning of 1988, directories of participating physicians for 1988, the Secretary shall provide for such publication, at the beginning of the 9-month period beginning on April 1, 1988, of such directories of participating physicians for such period; and

(D) instead of providing to nonparticipating physicians, under section 1842(b)(3)(G) of the Social Security Act at the beginning of 1988, a list of maximum allowable actual charges for 1988, the Secretary shall provide, at the beginning of the 9-month period beginning on April 1, 1988, to such physicians such a list for such 9-month period.

An agreement with a participating physician in effect on December 31, 1987, under section 1842(h)(1) of the Social Security Act shall not remain in effect for the period described in subparagraph (A) if the participating physician requests on or before December 31, 1987, that the agreement be terminated.

(3)(A) Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended—

(i) in subsection (b)(2), by adding at the end the following: "In establishing such standards and criteria, the Secretary shall provide a system to measure a carrier's performance of responsibilities described in paragraph (3)(H) and subsection (h)."; and

(ii) in subsection (c)(1), by inserting "(A)" after "(c)(1)" and by adding at the end the following new subparagraph:

"(B) Of the amounts appropriated for administrative activities to carry out this part, the Secretary shall provide payments, totaling 1 percent of the total payments to carriers for claims processing in any fiscal year, to carriers under this section, to reward carriers for their success in increasing the proportion of physicians in the carrier's service area who are participating physicians or in increasing the proportion of total payments for physicians' services which are payments for such services rendered by participating physicians.".

(B) Section 9332(a) of the Omnibus Budget Reconciliation Act of 1986 is amended—

(i) by striking paragraphs (2) and (3),

(ii) in paragraph (4)(B), by striking "under paragraph (2)" and inserting "under the last sentence of section 1842(b)(2) of the Social Security Act", and

(iii) in paragraph (4)(C)—

(I) by striking "under paragraph (3)" and inserting "under section 1842(c)(1)(B) of the Social Security Act",

(II) by striking "April" and inserting "July", and

(III) by striking "at the end of 1987" and inserting "before April 1, 1988".

42 USC 1395u notes.

42 USC 1395u note.

42 USC 1395u note.

(b) EXTENSION OF REDUCTION UNDER SEQUESTER ORDER.—Notwithstanding any other provision of law (including any other provision of this Act), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through March 31, 1988, with respect to payments for physicians' services under part B of such title.

President of U.S. 2 USC 902 note.

101 STAT. 1330-85

SEC. 4042. GENERAL UPDATE IN PAYMENTS FOR PHYSICIANS' SERVICES.

(a) INCREASE IN MEI FOR 1988 AND 1989.—Section 1842(b)(4) of the Social Security Act (42 U.S.C. 1395u(b)(4)) is amended by adding at the end the following new subparagraph:

"(F)(i) For purposes of this part for physicians' services furnished in 1987, the percentage increase in the MEI is 3.2 percent.

"(ii) For purposes of this part for physicians' services furnished in 1988, on or after April 1, the percentage increase in the MEI is—

"(I) 3.6 percent for primary care services (as defined in subparagraph (E)(iii)), and

"(II) 1 percent for other physicians' services.

"(iii) For purposes of this part for physicians' services furnished in 1989, the percentage increase in the MEI is—

"(I) 3.0 percent for primary care services; and

"(II) 1 percent for other physician's services.".

(b) PRIMARY CARE SERVICES DEFINED.—Section 1842(b)(4)(E) of such Act (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end thereof the following new clause:

"(iii) The term 'primary care services' means physicians' services which constitute office medical services, emergency department services, home medical services, skilled nursing, intermediate care, and long-term care medical services, or nursing home, boarding home, domiciliary, or custodial care medical services.".

(c) PARTICIPATING PHYSICIAN DIFFERENTIAL.—Section 1842(b)(4)(A)(iv) of such Act (42 U.S.C. 1395u(b)(4)(A)(iv)) is amended—

(1) by striking "96 percent" and inserting "applicable percent", and

(2) by adding at the end the following: "In the previous sentence, the term 'applicable percent' means for services furnished (I) on or after January 1, 1987, and before April 1, 1988, 96 percent, (II) on or after April 1, 1988, and before January 1, 1988, 95.5 percent, and (III) on or after January 1, 1989, 95 percent.".

SEC. 4043. INCENTIVE PAYMENTS FOR PHYSICIANS' SERVICES FURNISHED IN UNDERSERVED AREAS.

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(m) In the case of physicians' services furnished to an individual, who is covered under the insurance program established by this part and who incurs expenses for such services, in an area that is designated (under section 332(a)(1)(A) of the Public Health Service Act) as a class 1 or class 2 health manpower shortage area, in addition to the amount otherwise paid under this part, there also shall be paid to the physician (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6)) (on a monthly or quarterly basis) from the Federal Supplementary Medical Insurance Trust Fund an amount equal to 5 percent of the payment amount for the service under this part.".

101 STAT. 1330-86

Reports.
42 USC 1395l note.

(b) STUDY.—The Secretary of Health and Human Services shall study and report to Congress, by not later than January 1, 1990, on the feasibility of making additional payments described in section 1833(m) of the Social Security Act with respect to physician services which are performed in health manpower shortage areas located in urban areas.

42 USC 1395l note.

(c) EFFECTIVE DATE.—The amendments made by this subsection (a) shall apply with respect to services furnished in a rural area (as defined in section 1886(d)(2)(D) of the Social Security Act) [29] on or after January 1, 1989, and to other services furnished on or after January 1, 1991.

SEC. 4044. ADJUSTMENT IN PREVAILING CHARGE LEVEL FOR PRIMARY CARE SERVICES.

(a) INCREASE IN PREVAILING CHARGES FOR PRIMARY CARE SERVICES.—Section 1842(b)(4)(A) of the Social Security Act (42 U.S.C.

[29] Copy read "Act))".

1395u(b)(4)(A)), as amended by section 4041(a)(1) of this subtitle, is further amended by redesignating clause (vi) as clause (vii) and by inserting after clause (v) the following new clause:

"(vi) Before each year (beginning with 1989), the Secretary shall establish a prevailing charge floor for primary care services (as defined in subparagraph (E)(iii)) equal to 50 percent of the average of the prevailing charge levels (determined, for participating physicians under the third and fourth sentences of paragraph (3) and under paragraph (4), without regard to this clause and without regard to physician specialty) for such service for all localities in the United States (weighted by the relative frequency of the service in each locality) for the year.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payment for physicians' services furnished on or after January 1, 1989. 42 USC 1395u note.

SEC. 4045. REDUCTION IN PREVAILING CHARGE LEVEL FOR OVERPRICED PROCEDURES.

(a) IN GENERAL.—Paragraph (10) of section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended to read as follows:

"(10)(A)(i) In determining the reasonable charge under paragraph (3) for procedures described in subparagraph (C) and performed during the 9-month period beginning on April 1, 1988, the prevailing charge for such procedure for participating and nonparticipating physicians shall be the prevailing charge otherwise recognized for such procedure for 1987—

"(I) subject to clause (iii), reduced by 2.0 percent, and

"(II) further reduced by the applicable percentage specified in clause (ii).

"(ii) For purposes of clause (i), the applicable percentage specified in this clause is—

"(I) 15 percent, in the case of a prevailing charge otherwise recognized (without regard to this paragraph and determined without regard to physician specialty) that is at least 150 percent of the weighted national average (as determined by the Secretary) of such prevailing charges for such procedure for all localities in the United States for 1987;

"(II) 0 percent, in the case of a prevailing charge that does not exceed 85 percent of such weighted national average; and 101 STAT. 1330-87

"(III) in the case of any other prevailing charge, a percent determined on the basis of a straight-line sliding scale, equal to 3/13 of a percentage point for each percent by which the prevailing charge exceeds 85 percent of such weighted national average.

"(iii) In no case shall the reduction under clause (i) for a procedure result in a prevailing charge in a locality for 1988 which is less than 85 percent of the Secretary's estimate of the weighted national average of such prevailing charges for such procedure for all localities in the United States for 1987 (based upon the best available data and determined without regard to physician specialty) after making the reduction described in clause (i)(II).

"(B) The procedures described in this subparagraph are as follows: bronchoscopy,[29a] carpal tunnel repair, cataract surgery, coronary artery bypass surgery, diagnostic and/or therapeutic dilation and curettage, knee arthroscopy, knee arthroplasty, pacemaker implantation surgery, total hip replacement, suprapubic prostatectomy, transurethral resection of the prostate, and upper gastrointestinal endoscopy.

"(C) In the case of a reduction in the reasonable charge for a physicians' service under subparagraph (A), if a nonparticipating physician furnishes the service to an individual entitled to benefits under this part, after the effective date of such reduction, the physician's actual charge is subject to a limit under subsection (j)(1)(D).

[29a] Copy read "bronschoscopy,".

"(D) There shall be no administrative or judicial review section 1869 or otherwise of any determination under subparagraph (A) or under[29b] paragraph (11)(B)(ii).".

(b) MODIFICATION OF GEOGRAPHIC INDEX.—Section 1845(e)(4)(A)(i) of such Act (42 U.S.C. 1395w-1(e)(4)(A)(i)) is amended by inserting "and costs of living" after "costs of practice".

(c) CONSOLIDATED CHARGE LIMITATION PROVISIONS.—

(1) PENALTIES FOR EXCESS CHARGES.—Section 1842 of such Act is further amended—

(A) in subsection (b)(11)(C)—

(i) in clause (i), by striking "(subject to clause (iv))" and all that follows through the end and inserting the following: ", the physician's actual charge is subject to a limit under subsection (j)(1)(D).";

(ii) in clause (i), by striking "(i)" after "(C)"; and

(iii) by striking clauses (ii) through (iv); and

(B) in subsection (j)(1), by adding at the end the following new subparagraph:

"(D)(i) If an action described in clause (ii) results in a reduction in a reasonable charge for a physicians' service or item and a nonparticipating physician furnishes the service or item to an individual entitled to benefits under this part after the effective date of such action, the physician may not charge the individual more than 125 percent of the reduced payment allowance (as defined in clause (iii)) plus (for services or items furnished during the 12-month period (or 9-month period in the case of an action described in clause (ii)(II)) beginning on the effective date of the action) ½ of the amount by which the physician's maximum allowable actual charge for the service or item for the previous 12-month period exceeds such 125 percent level.

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"(ii) The first sentence of clause (i) shall apply to—

"(I) an adjustment under subsection (b)(8)(B) (relating to inherent reasonableness),

"(II) a reduction under subsection (b)(10)(A) (relating to certain overpriced procedures),

"(III) a reduction under subsection (b)(11)(B) (relating to certain cataract procedures), and

"(IV) an adjustment under section 1833(l)(3)(B) (relating to physician supervision of certified registered nurse anesthetists).

"(iii) In clause (i), the term 'reduced payment allowance' means, with respect to an action—

"(I) under subsection (b)(8)(B), the inherently reasonable charge established under subsection (b)(8); or

"(II) under subsection (b)(10)(A) or (b)(11)(B) or under section 1833(l)(3)(B), the prevailing charge for the service after the action.

"(iv) If a physician knowingly and willfully imposes a charge in violation of clause (i) (whether or not such charge violates subparagraph (B)), the Secretary may apply sanctions against such physician in accordance with paragraph (2).

"(v) Clause (i) shall not apply to items and services furnished after the earlier of (I) December 31, 1990, or (II) one-year after the date the Secretary reports to Congress, under section 1845(e)(3), on the development of the relative value scale under section 1845.".

(2) CONFORMING AMENDMENTS.—(A) Section 1833(l)(6) of such Act (42 U.S.C. 1395l(l)(6)) is amended—

(i) in subparagraph (A), by striking "(subject to subparagraph (D))" and all that follows through the end and inserting the following: "after the effective date of the reduction, the physician's actual charge is subject to a limit under section 1842(j)(1)(D).";

(ii) in subparagraph (A), by striking "(A)" after "(6)"; and

(iii) by striking subparagraphs (B) through (D).

[29b] Copy read "under under".

(B) Section 1842(b)(11)(B)(i) of such Act (42 U.S.C. 1395u(b)(11)(B)(i)) is amended by striking "and shall be further reduced" and all that follows through "1988".

(C) Section 9334(b)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "1842(b)(10)" and inserting "1842(j)(1)(D)". 42 USC 1395u note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after April 1, 1988, except the amendment made by subsection (c)(2)(B) shall apply to services furnished on or after January 1, 1988. 42 USC 1395u note.

SEC. 4046. LIMITS ON PAYMENT FOR OPHTHALMIC ULTRASOUND.

(a) IN GENERAL.—Section 1842 of the Social Security Act (42 U.S.C. 1395u), as previously amended by this subpart is amended—

(1) in subsection (b)(11)—

(A) in subparagraph (C), as redesignated under section 4045(c)(1)(A)(ii) of this title, by inserting "or (C)" after "subparagraph (B)";

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) The prevailing charge level determined with respect to A-mode ophthalmic ultrasound procedures may not exceed 5 percent of the prevailing charge level established with respect to extracapsular cataract removal with lens implantation."; and 101 STAT. 1330-89

(2) in subparagraph (D) of subsection (j)(1), as added by section 4045(c)(1)(B) of this subtitle—

(A) in clause (ii), by striking "and" at the end of subclause (III), by redesignating subclause (IV) as subclause (V) and by inserting before such subclause the following new subclause:

"(IV) a prevailing charge limit is established under subsection (b)(11)(C)(i), and"; and

(B) in clause (iii)(II), by striking "or (b)(11)(B)" and inserting ", (b)(11)(B), or (b)(11)(C)(i)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after April 1, 1988. 42 USC 1395u note.

SEC. 4047. CUSTOMARY CHARGES FOR PRIMARY CARE SERVICES OF NEW PHYSICIANS.

(a) IN GENERAL.—Section 1842(b)(4) of the Social Security Act, as amended by section 4042(a), is further amended by adding at the end thereof the following new subparagraph:

"(G) In determining the customary charges for physicians' services (other primary care services and other than services furnished in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332(a)(1)(A) of the Public Health Service Act, as a health manpower shortage area) for which adequate actual charge data are not available because a physician has not yet been in practice for a sufficient period of time, the Secretary shall set a customary charge at a level no higher than 80 percent of the prevailing charge (as determined under the third and fourth sentences of paragraph (3) and under paragraph (4)) for a service.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to physicians who first furnish services to medicare beneficiaries after April 1, 1988. 42 USC 1395u note.

SEC. 4048. PAYMENT FOR PHYSICIAN ANESTHESIA SERVICES.

(a) IN GENERAL.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is further amended by adding at the end the following new paragraph:

"(14)(A) In determining the reasonable charge under paragraph (3) of a physician for medical direction of two or more nurse anes-

thetists performing, on or after April 1, 1988, and before January 1, 1991, anesthesia services in whole or in part concurrently, the number of base units which may be recognized with respect to such medical direction for each concurrent procedure (other than cataract surgery or an iridectomy) shall be reduced by—

"(i) 10 percent, in the case of medical direction of 2 nurse anesthetists concurrently,

"(ii) 25 percent, in the case of medical direction of 3 nurse anesthetists concurrently, and

"(iii) 40 percent, in the case of medical direction of 4 nurse anesthetists concurrently.

"(B) In determining the reasonable charge under paragraph (3) of a physician for medical direction of two or more nurse anesthetists performing, on or after January 1, 1989, and before January 1, 1991, anesthesia services in whole or in part concurrently, the number of

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base units which may be recognized with respect to such medical direction for each concurrent cataract surgery or iridectomy procedure shall be reduced by 10 percent.

"(C) The Secretary shall require claims for physicians' services for medical direction of nurse anesthetists during the periods in which the provisions of subparagraph (A) or (B) apply to indicate the number of such anesthetists being medically directed concurrently at any time during the procedure, the name of each nurse anesthetist being directed, and the type of procedure for which the services are provided.".

Regulations. 42 USC 1395u note.

(b) DEVELOPMENT OF UNIFORM RELATIVE VALUE GUIDE.—The Secretary of Health and Human Services, in consultation with groups representing physicians who furnish anesthesia services, shall establish by regulation a relative value guide for use in all carrier localities in making payment for physician anesthesia services furnished under part B of title XVIII of the Social Security Act on and after January 1, 1989. Such guide shall be designed so as to result in expenditures under such title for such services in an amount that would not exceed the amount of such expenditures which would otherwise occur.

Reports. 42 USC 1395u note.

(c) STUDY OF PREVAILING CHARGES FOR ANESTHESIA SERVICES.—The Secretary of Health and Human Services shall conduct a study of the variations in conversion factors used by carriers under section 1842(b) of the Social Security Act to determine the prevailing charge for anesthesia services and shall report the results of the study and make recommendations for appropriate adjustments in such factors not later than January 1, 1989.

42 USC 1395u note.

(d) GAO STUDIES.—(1) The Comptroller General shall conduct a study—

(A) to determine the average anesthesia times reported for medicare reimbursement purposes,

(B) to verify those times from patient medical records,

(C) to compare anesthesia times to average surgical times, and

(D) to determine whether the current payments for physician supervision of nurse anesthetists are excessive.

Reports.

The Comptroller General shall report to Congress, by not later than January 1, 1989, on such study and in the report include recommendations regarding the appropriateness of the anesthesia times recognized by medicare for reimbursement purposes and recommendations regarding adjustments of payments for physician supervision of nurse anesthetists.

Reports.

(2) The Comptroller General shall conduct a study on the impact of the amendment made by subsection (a), and shall report to Congress on the results of such study by April 1, 1990.

SEC. 4049. FEE SCHEDULES FOR RADIOLOGIST SERVICES.

(a) IN GENERAL.—Part B of title XVIII of the Social Security Act is amended—

(1) in section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by section 4062(c)(3) of this subtitle by striking "and" before "(I)", and by adding at the end the following new clause: "and (J) with respect to expenses incurred for radiologist services (as defined in section 1834(b)(5)), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount provided under the fee schedule established under section 1834(b),"; and

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(2) by adding at the end of section 1834, as subsequently inserted by section 4062(a) of this subtitle, the following new subsection:

"(b) FEE SCHEDULES FOR RADIOLOGIST SERVICES.— 42 USC 1395m.

"(1) DEVELOPMENT.—The Secretary shall develop—

"(A) a relative value scale to serve as the basis for the payment for radiologist services under this part, and

"(B) using such scale and appropriate conversion factors, fee schedules (on a regional, statewide, or carrier service area basis) for payment for radiologist services under this part, to be implemented for such services furnished during 1989.

"(2) CONSULTATION.—In carrying out paragraph (1), the Secretary shall regularly consult closely with the Physician Payment Review Commission, the American College of Radiology, and other organizations representing physicians or suppliers who furnish radiologist services and shall share with them the data and data analysis being used to make the determinations under paragraph (1), including data on variations in current medicare payments by geographic area, and by service and physician specialty.

"(3) CONSIDERATIONS.—In developing the relative value scale and fee schedules under paragraph (1), the Secretary—

"(A) shall take into consideration variations in the cost of furnishing such services among geographic areas and among different sites where services are furnished, and

"(B) may also take into consideration such other factors respecting the manner in which physicians in different specialties furnish such services as may be appropriate to assure that payment amounts are equitable and designed to promote effective and efficient provision of radiologist services by physicians in the different specialties.

"(4) SAVINGS.—

"(A) BUDGET NEUTRAL FEE SCHEDULES.—The Secretary shall develop preliminary fee schedules for 1989, which are designed to result in the same amount of aggregate payments (net of any insurance and deductibles under section 1835(a)(1)(I) and 1833(b)) for radiologist services furnished in 1989 as would have been made if this subsection had not been enacted.

"(B) INITIAL SAVINGS.—The fee schedules established for payment purposes under this subsection for services furnished in 1989 shall be 97 percent of the amounts permitted under these [30] preliminary fee schedules developed under subparagraph (A).

"(C) SUBSEQUENT UPDATING.—Radiologist services furnished in subsequent years, the fee schedules shall be the schedules for the previous year updated by the percentage increase in the MEI (as defined in section 1842(b)(4)(E)(ii)) for the year.

"(D) [31] NONPARTICIPATING PHYSICIANS.—Each fee schedule so established shall provide that the payment rate

[30] Copy read "this".
[31] Copy read "(C)".

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recognized for nonparticipating physicians and suppliers is equal to the appropriate percent (as defined in section 1842(b)(4)(A)(iv)) of the payment rate recognized for participating physicians and suppliers.

"(5) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of radiologist services furnished after January 1, 1989, for which payment is made under a fee schedule under this subsection, if a nonparticipating physician or supplier furnishes the service to an individual entitled to benefits under this part, the physician or supplier may not charge the individual more than the limiting charge (as defined in subparagraph (B)).

"(B) LIMITING CHARGE DEFINED.—In subparagraph (A), the term 'limiting charge' means, with respect to a service furnished—

"(i) in 1989, 125 percent of the amount specified for the service in the appropriate fee schedule established under paragraph (1),

"(ii) in 1990, 120 percent of the amount specified for the service in the appropriate fee schedule established under paragraph (1), and

"(iii) after 1990, 115 percent of the amount specified for the service in the appropriate fee schedule established under paragraph (1).

"(C) ENFORCEMENT.—If a physician or supplier knowingly and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).

"(6) [32] RADIOLOGIST SERVICES DEFINED.—For the purposes of this subsection, section 1833(a)(1)(I), and section 1842(h)(1)(B), the term 'radiologist services' only includes radiologic services performed by, or under the direction or supervision of, a physician—

"(A) who is certified, or eligible to be certified, by the American Board of Radiology, or

"(B) for whom radiologic services account for at least 50 percent of billings made under this part.".

Reports.
42 USC 1395m note.

(b) DEADLINES AND EFFECTIVE DATE.—

(1) The Secretary of Health and Human Services shall establish the relative value scale and fee schedules for radiologist services (under section 1834(b) of the Social Security Act) by not later than August 1, 1988, and shall report to Congress on the development of such fee schedules not later than August 1, 1988.

(2) The amendments made by this section shall apply to services performed on or after January 1, 1989, and until such time as the Secretary of Health and Human Services implements physician fee schedules based on the relative value scale developed under section 1845(e) of the Social Security Act.

42 USC 1395*l* note.

SEC. 4050. FEE SCHEDULES FOR PHYSICIAN PATHOLOGY SERVICES.

(a) IN GENERAL.—The Secretary of Health and Human Services

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shall develop—

(1) a relative value scale to serve as the basis for the payment for physician pathology services under part B of title XVIII of the Social Security Act,

(2) using such scale and appropriate conversion factors, proposed fee schedules (on a regional, statewide, or carrier service area basis) for payment for physician pathology services under such part, that could be implemented for such services furnished during 1990, and

(3) an appropriate index to be applied to updating such fee

[32] Copy read "(5)".

schedules annually for physician pathology services furnished in years after 1990.

(b) CONSULTATION.—In carrying out subsection (a), the Secretary shall regularly consult closely with the Physician Payment Review Commission, the College of American Pathologists, and other organizations representing physicians who furnish physician pathology services and shall share with them the data and data analysis being used to make the determinations under subsection (a), including data on variations in current medicare payments by geographic area, and by service and physician specialty.

(c) CONSIDERATION.—In developing the fee schedules under subsection (a), the Secretary shall take into consideration variations in the cost of furnishing physician pathology services among geographic areas.

(d) REPORT.—The Secretary shall report, not later than April 1, 1989, to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the relative value scale, fee schedules, and the index developed under this section. Such report shall include recommendations on how to protect medicare beneficiaries against excessive charges for physician pathology services above the payment amounts established by the fee schedules.

SEC. 4051. ELIMINATION OF MARKUP FOR CERTAIN PURCHASED SERVICES.

(a) IN GENERAL.—Section 1842 of the Social Security Act (42 U.S.C. 1935u) is amended by adding at the end the following new subsection: 42 USC 1395u.

"(n)(1) If a physician's bill or a request for payment for services billed by a physician includes a charge to a patient for a diagnostic test described in section 1861(s)(3) (other than a clinical diagnostic laboratory test) for which payment does not indicate that the billing physician personally performed or supervised the performance of the test or that another physician with whom the physician who shares his practice personally performed or supervised the test, the amount payable with respect to the test shall be determined as follows:

"(A) If the bill or request for payment indicates that the test was performed by a supplier, identifies the supplier, and indicates the amount the supplier charged the billing physician, payment for the test (less the applicable deductible and coinsurance amounts) shall be the actual acquisition costs (net of any discounts) or, if lower, the [———] [———] [———] [———] [———] [———] [———] [———] [———] [———] [———] [———].[32a]

"(B) If the bill or request for payment (i) does not indicate who performed the test, or (ii) indicates that the test was performed by a supplier but does not identify the supplier or include the amount charged by the supplier, no payment shall be made under this part. 101 STAT. 1330-94

"(2) A physician may not bill an individual enrolled under this part—

"(A) any amount other than any applicable deductible and coinsurance for a diagnostic test for which payment is made pursuant to paragraph (1)(A), or

"(B) any amount for a diagnostic test for which payment may not be made pursuant to paragraph (1)(B).

"(3) If a physician knowingly and willfully in repeated cases bills one or more individuals in violation of paragraph (2), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).".

[32a] Copy not legible.

42 USC 1395u.

(b) ADJUSTMENT IN MEDICARE PREVAILING CHARGES.—

(1) REVIEW.—The Secretary of Health and Human Services shall review payment levels under part B of title XVIII of the Social Security Act for diagnostic tests (described in section 1861(s)(3) of such Act, but excluding clinical diagnostic laboratory tests) which are commonly performed by independent suppliers, sold as a service to physicians, and billed by such physicians, in order to determine the reasonableness of payment amounts for such tests (and for associated professional services component of such tests). The Secretary may require physicians and suppliers to provide such information on the purchase or sale price (net of any discounts) for such tests as is necessary to complete the review and make the adjustments under this subsection. The Secretary shall also review the reasonableness of payment levels for comparable in-office diagnostic tests.

(2) ESTABLISHMENT OF REVISED PAYMENT SCREENS.—If, as a result of such review, the Secretary determines, after notice and opportunity of at least 60 days for public comment, that the current prevailing charge levels (under the third and fourth sentences of section 1842(b) of the Social Security Act) for any such tests or associated professional services are excessive, the Secretary shall establish such charge levels at levels which, consistent with assuring that the test is widely and consistently available to medicare beneficiaries, reflect a reasonable price for the test without any markup. Alternatively, the Secretary, pursuant to guidelines published after notice and opportunity of at least 60 days for public comment, may delegate to carriers with contracts under section 1842 of the Social Security Act the establishment of new prevailing charge levels under this paragraph. When such charge levels are established, the provisions of section 1842(j)(1)(D) of such Act shall apply in the same manner as they apply to a reduction under section 1842(b)(8)(A) of such Act.

Contracts.

42 USC 1395u note.

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to diagnostic tests performed on or after April 1, 1988.

(2) The Secretary of Health and Human Services shall complete the review and make an appropriate adjustment of prevailing charge levels under subsection (b) for items and services furnished no later than January 1, 1989.

101 STAT. 1330-95

SEC. 4052. COLLECTION OF PAST-DUE AMOUNTS OWED BY PHYSICIANS WHO BREACHED CONTRACTS UNDER THE NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act, as previously amended by this subtitle, is amended by adding at the end thereof the following new section:

42 USC 1395ccc.

"OFFSET OF PAYMENTS TO PHYSICIANS TO COLLECT PAST-DUE OBLIGATIONS ARISING FROM BREACH OF SCHOLARSHIP CONTRACT

"SEC. 1892. (a) IN GENERAL.—

"(1)(A) Subject to subparagraph (B), the Secretary shall enter into an agreement under this section with any physician who, by reason of a breach of a contract entered into by such physician pursuant to the National Health Service Corps Scholarship Program, owes a past-due obligation to the United States (as defined in subsection (b)).

"(B) The Secretary shall not enter into an agreement with a physician under this section to the extent—

"(i)(I) the physician has entered into a contract with the Secretary pursuant to section 204(a)(1) of the Public Health Service Amendments of 1987, and

"(II) the physician has fulfilled or (as determined by the Secretary) is fulfilling the terms of such contract; or

"(ii) the liability of the physician under such section 204(a)(1) has otherwise been relieved under such section; or

"(iii) the physician is performing such physician's service obligation under a forbearance agreement entered into with the Secretary under subpart II of part D of title III of the Public Health Service Act.

"(2) The agreement under this section shall provide that—

"(A) deductions shall be made from the amounts otherwise payable to the physician under this title, in accordance with a formula and schedule agreed to by the Secretary and the physician, until such past-due obligation (and accrued interest) have been repaid;

"(B) payment under this title for services provided by such physician shall be made only on an assignment-related basis;

"(C) if the physician does not provide services, for which payment would otherwise be made under this title, of a sufficient quantity to maintain the offset collection according to the agreed upon formula and schedule—

"(i) the Secretary shall immediately inform the Attorney General, and the Attorney General shall immediately commence an action to recover the full amount of the past-due obligation, and

"(ii) subject to paragraph (3), the Secretary shall immediately exclude the physician from the program under this title, until such time as the entire past-due obligation has been repaid.

"(3) If the physician refuses to enter into an agreement or breaches any provision of the agreement—

"(A) the Secretary shall immediately inform the Attorney General, and the Attorney General shall immediately commence an action to recover the full amount of the past-due obligation, and

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"(B) subject to paragraph (3), the Secretary shall immediately exclude the physician from the program under this title, until such time as the entire past-due obligation has been repaid.

"(4) The Secretary shall not bar a physician pursuant to paragraph (2)(C)(ii) or paragraph (3)(B) if such physician is a sole community physician or sole source of essential specialized services in a community.

"(b) PAST-DUE OBLIGATION.—For purposes of this section, a past-due obligation is any amount—

"(1) owed by a physician to the United States by reason of a breach of a scholarship contract under section 338E of the Pubiic Health Service Act, and

"(2) which has not been paid by the deadline established by the Secretary pursuant to section 338E of the Public Health Service Act, and has not been canceled, waived, or suspended by the Secretary pursuant to such section.

"(c) COLLECTION UNDER THIS SECTION SHALL NOT BE EXCLUSIVE.—This section shall not preclude the United States from applying other provisions of law otherwise applicable to the collection of obligations owed to the United States, including (but not limited to) the use of tax refund offsets pursuant to section 3720A of title 31, United States Code, and the application of other procedures provided under chapter 37 of title 31, United States Code.

"(d) COLLECTION FROM PROVIDERS AND HEALTH MAINTENANCE ORGANIZATIONS.—

"(1) In the case of a physician who owes a past-due obligation, and who is an employee of, or affiliated by a medical services agreement with, a provider having an agreement under section 1866 or a health maintenance organization or competitive medi-

cal plan having a contract under section 1833 or section 1876, the Secretary shall deduct the amounts of such past-due obligation from amounts otherwise payable under this title to such provider, organization, or plan.

"(2) Deductions shall be in accordance with a formula and schedule agreed to by the Secretary, the physician and the provider, organization, or plan. The deductions shall be made from the amounts otherwise payable to the physician under this title as long as the physician continued to be employed or affiliated by a medical services agreement.

"(3) Such deduction shall not be made until 6 months after the Secretary notifies the provider, organization, or plan of the amount to be deducted and the particular physicians to whom the deductions are attributable.

"(4) A deduction made under this subsection shall relieve the physician of the obligation (to the extent of the amount collected) to the United States, but the provider, organization, or plan shall have a right of action to collect from such physician the amount deducted pursuant to this subsection (including accumulated interest).

"(5) No deduction shall be made under this subsection if, within the 6-month period after notice is given to the provider, organization, or plan, the physician pays the past-due obligation, or ceases to be employed by the provider, organization, or plan.

"(6) The Secretary shall also apply the provisions of this subsection in the case of a physician who is a member of a group practice, if such group practice submits bills under this program as a group, rather than by individual physicians.

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"(e) TRANSFER FROM TRUST FUNDS.—Amounts equal to the amounts deducted pursuant to this section shall be transferred from the Trust Fund from which the payment to the physician, provider, or other entity would otherwise have been made, to the general fund in the Treasury, and shall be credited as payment of the past-due obligation of the physician from whom (or with respect to whom) the deduction was made.".

(b) CONFORMING REFERENCE.—Section 338E(b)(1) of the Public Health Service Act (42 U.S.C. 254o(b)(1)) is amended by adding at the end thereof the following new sentence: "Amounts not paid within such period shall be subject to collection through deductions in Medicare payments pursuant to section 1892 of the Social Security Act.".

42 USC 1395ccc note.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of the enactment of this Act.

SEC. 4052. ELIMINATION OF 1975 FLOOR FOR PREVAILING PHYSICIAN CHARGES.

(a) IN GENERAL.—Section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)) is amended by striking the next-to-last sentence (which begins "Notwithstanding the provisions of").

42 USC 1395u note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payment for services furnished on or after January 1, 1988.

SEC. 4053. APPLICATION OF MAXIMUM ALLOWABLE ACTUAL CHARGE (MAAC).

(a) APPLICATION ON INDIVIDUAL CHARGE BASIS.—Section 1842(j)(1) of the Social Security Act (42 U.S.C. 1395u(j)(1)) is amended—

(1) in the first sentence of subparagraph (B)(i), by striking "each such physician's actual charges" and inserting "the actual charges of each such physician";

(2) in the second sentence of subparagraph (B)(i), by striking "for such a service a physician's actual charge (as defined in subparagraph (C)(vi)" and inserting "on a repeated basis for such a service an actual charge"; and

(3) in subparagraph (C)(vi), by striking "and subparagraph (B)".

(b) ADJUSTMENT.—In the case of a physician who did not have actual charges under title XVIII of the Social Security Act for a procedure in the calendar quarter beginning on April 1, 1984, but who establishes to the satisfaction of a carrier that he or she had actual charges (whether under such title or otherwise) for the procedure performed prior to June 30, 1984, the carrier shall compute the maximum allowable actual charge under section 1842(j) of the Social Security Act for such procedure performed by such physician in 1988 based on such physician's actual charges for the procedure. 42 USC 1395u note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to charges imposed for services furnished on or after April 1, 1988. 42 USC 1395u note.

SEC. 4054. APPLYING COPAYMENT AND DEDUCTIBLE TO CERTAIN OUTPATIENT PHYSICIANS' SERVICES. 42 USC 1395l note.

Notwithstanding any other provision of law, payment under part B of title XVIII of the Social Security Act for physicians' services specified in section 1833(i)(1) of such Act and furnished on or after April 1, 1988, in an ambulatory surgical center or hospital outpatient department on an assignment-related basis shall be subject to the deductible under section 1833(b) of such Act and 20 percent coinsurance.

SEC. 4055. PHYSICIAN PAYMENT STUDIES.

(a) DEFINITIONS OF MEDICAL AND SURGICAL PROCEDURES.— 42 USC 1395u note.

(1) REPORT ON VARIATIONS IN CARRIER PAYMENT PRACTICE.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct a study of variations in payment practices for physicians' services among the different carriers under section 1842 of the Social Security Act. Such study shall examine carrier variations in the services included in global fees and pre- and post-operative services included in payment for the operation. The Secretary shall report to Congress on such study by not later than May 1, 1988.

(2) UNIFORM DEFINITIONS OF PROCEDURES FOR PAYMENT PURPOSES.—The Secretary shall develop, in consultation with appropriate national medical specialty societies and by not later than July 1, 1989, uniform definitions of physicians' services (including appropriate classification scheme for procedures) which could serve as the basis for making payments for such services under part B of title XVIII of the Social Security Act. In developing such list, to the extent practicable—

(A) ancillary services commonly performed in conjunction with a major procedure would be included with the major procedure;

(B) pre- and post-procedure services would be included in the procedure; and

(C) similar procedures would be listed together if the procedures are similar in resource requirements.

(b) EXPANSION OF RELATIVE VALUE SCALE (RVS) STUDY.— 42 USC 1395w-1 note.

(1) ADDITIONAL SERVICES.—The Secretary shall expand the study being conducted, under section 1845(e) of the Social Security Act, to develop a relative value scale for physicians' services to include physicians' services in the fields of cardiology, dermatology, emergency medicine, gastroenterology, hematology, infectious disease, nephrology, neurology, neurosurgery, nuclear medicine, oncology, physical medicine and rehabilitation, plastic surgery, pulmonary medicine, and radiation therapy, and for physicians who specialize in osteopathic procedures.

(2) NO DELAY IN CURRENT STUDY.—The expansion under paragraph (1) shall not be conducted in a manner that delays the completion of the current study or the report to Congress

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required under section 1845(e)(3) of the Social Security Act. The Secretary shall report to Congress on the services described in paragraph (1) by not later than October 1, 1989.

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(3) PROMPT SUBMITTAL OF STUDY RESULTS TO PHYSICIAN PAYMENT REVIEW COMMISSION.—The Secretary shall submit to the Physician Payment Review Commission a copy of any report submitted to the Secretary pursuant to a cooperative agreement in the fulfillment of the requirement of section 1845(e) of such Act, with all relevant supporting data (including survey data, analytic data files, and file documentation), by no later than 30 days after the date the final report is received by the Secretary.

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42 USC 1395l note.

(c) OTHER PHYSICIAN PAYMENT STUDIES.—

(1) FEE SCHEDULE IMPLEMENTATION.—The Secretary shall conduct a study of changes in the payment system for physicians' services, under part B of title XVIII of the Social Security Act, that would be required for the implementation of a national fee schedule for such services furnished on or after January 1, 1990. Such study shall identify any major technical problems related to such implementation and recommendations on ways in which to address such problems. The Secretary shall report to the Congress on such study by not later than July 1, 1989.

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(2) VOLUME AND INTENSITY OF PHYSICIAN SERVICES.—The Secretary shall conduct a study of issues relating to the volume and intensity of physicians' services under part B of title XVIII of the Social Security Act, including—

(A) historical trends with regard to increases in the volume and intensity of physicians' services furnished on a per enrollee basis (with appropriate adjustments to account for changes in the demographic composition of the medicare population);

(B) geographic variations in volume and intensity in physicians' services;

(C) an analysis of the effectiveness of methods currently used under such part to ensure that payments under such part are made only for services which are medically necessary;

(D) the development and analysis of alternative methods to control the volume of services; and

(E) the impact of the implementation of the relative value scale developed under section 1845(e) of such Act on the volume and intensity of physicians' services.

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The Secretary shall submit to Congress an interim report on such study not later than May 1, 1988, and a final report on such study not later than May 1, 1989.

(3) SURVEY OF OUT-OF-POCKET COSTS OF MEDICARE BENEFICIARIES FOR HEALTH CARE SERVICES.—The Secretary shall conduct a survey to determine the distribution of—

(A) the liabilities and expenditures for health care services of individuals entitled to benefits under title XVIII of the Social Security Act, including liabilities for charges (not paid on an assignment-related basis) in excess of the reasonable charge recognized, and

(B) the collection rates among different classes of physicians for such liabilities, including collection rates for required coinsurance and for charges (not paid on an assignment-related basis) in excess of the reasonable charge recognized.

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The Secretary shall report to Congress on such study by not later than July 1, 1990.

42 USC 1395l note.

(d) STUDY OF PAYMENT FOR CHEMOTHERAPY IN PHYSICIANS' OFFICES.—

(1) IN GENERAL.—The Secretary shall study ways of modifying part B of title XVIII of the Social Security Act to permit adequate payment under such part for the costs associated with providing chemotherapy to cancer patients in physicians' of-

fices. The study shall be performed in consultation with physicians and other health care providers who are experts in cancer therapy and with representation of health insurers who have experience in these payment issues. 101 STAT. 1330-100

(2) REPORT.—The Secretary shall report to Congress on the results of the study by not later than April 1, 1989.

Subpart B—Provisions Relating to Payments for Other Services

SEC. 4061. EXTENSION OF REDUCTION FOR OTHER PART B ITEMS AND SERVICES PAYMENTS UNDER SEQUESTER ORDER. 2 USC 902 note.

Notwithstanding any other provision of law (including any other provision of this Act), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through March 31, 1988, with respect to payments for all items and services (other than physicians' services) under part B of such title.

SEC. 4062. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT, PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS.

(a) 1-YEAR FREEZE ON CHARGE LIMITATIONS.— 42 USC 1395u note.

(1) IN GENERAL.—In imposing limitations on allowable charges for items and services (other than physicians' services) furnished in 1988 under part B of title XVIII of such Act and for which payment is made on the basis of the reasonable charge for the item or service, the Secretary of Health and Human Services shall not impose any limitation at a level higher than the same level as was in effect in December 1987.

(2) TRANSITION.—The provisions of section 4041(a)(2) (other than subparagraph (D) thereof) of this subtitle shall apply to suppliers of items and services described in paragraph (1), and directories of participating suppliers of such items and services, in the same manner as such section applies to physicians furnishing physicians' services, and directories of participating physicians.

(b) AMOUNT AND FREQUENCY OF PAYMENT FOR DURABLE MEDICAL EQUIPMENT, PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS.—Part B of title XVIII of the Social Security Act is amended by inserting after section 1833 the following new section:

"SPECIAL PAYMENT RULES FOR PARTICULAR SERVICES

"SEC. 1834. (a) PAYMENT FOR DURABLE MEDICAL EQUIPMENT, PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS.— 42 USC 1395m.

"(1) GENERAL RULE FOR PAYMENT.—

"(A) IN GENERAL.—With respect to a covered item (as defined in paragraph (13)) for which payment is determined under this subsection, payment shall be made in the frequency specified in paragraphs (2) through (7) and in an amount equal to 80 percent of the payment basis described in subparagraph (B).

"(B) PAYMENT BASIS.—The payment basis described in this subparagraph is the lesser of— 101 STAT. 1330-101

"(i) the actual charge for the item, or

"(ii) the payment amount recognized under paragraphs (2) through (7) of this subsection for the item;

except that clause (i) shall not apply if the covered item is furnished by a public home health agency (or by another home health agency which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low income) free of charge or at nominal charges to the public.

"(C) EXCLUSIVE PAYMENT RULE.—This subsection shall constitute the exclusive provision of this title for payment for covered items under this part.

"(2) PAYMENT FOR INEXPENSIVE AND OTHER ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT.—

"(A) IN GENERAL.—Payment for an item of durable medical equipment (as defined in paragraph (13)(A))—

"(i) the purchase price of which does not exceed $150, or

"(ii) which the Secretary determines is acquired at least 75 percent of the time by purchase,

shall be made on a rental basis or in a lump-sum amount for the purchase of the item. The payment amount recognized for purchase or rental of such equipment is the amount specified in subparagraph (B) for purchase or rental, except that the total amount of rental payments with respect to an item may not exceed the payment amount specified in subparagraph (B) with respect to the purchase of the item.

"(B) PAYMENT AMOUNT.—For purposes of subparagraph (A), the amount specified in this subparagraph, with respect to the purchase or rental of an item furnished in a carrier service area—

"(i) in 1989 is the average allowed charge in the area for the purchase or rental, respectively, of the item for the 12-month period ending on June 30, 1987, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987; or

"(ii) in a subsequent year, is the amount specified in this subparagraph for the preceding year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of that preceding year.

"(3) PAYMENT FOR ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—

"(A) IN GENERAL.—Payment for a covered item (such as ventilators , aspirators, IPPB machines, and nebulizers) for which there must be frequent and substantial servicing in order to avoid risk to the patient's health shall be made on a monthly basis for the rental of the item and the amount recognized is the amount specified in subparagraph (B).

"(B) PAYMENT AMOUNT.—For purposes of subparagraph (A), the amount specified in this subparagraph, with respect to an item or device furnished in a carrier service area—

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"(i) in 1989 is the average allowable charge in the area for the rental of the item or device for the 12-month period ending with June 1987,[33] increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987; or

"(ii) in a subsequent year, is the amount specified in this subparagraph for the preceding year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of that preceding year.

"(4) PAYMENT FOR CERTAIN CUSTOMIZED ITEMS.—Payment with respect to a covered item that is uniquely constructed or substantially modified to meet the specific needs of an individual patient shall be made in a lump-sum [34] amount for the purchase of the item in a payment amount based upon the

[33] Copy read "June, 1987,".
[34] Copy read "lump sum".

carrier's individual consideration for that item, and for the reasonable and necessary maintenance and service for parts and labor not covered by the supplier's or manufacturer's warranty, when necessary during the period of medical need, and the amount recognized for such maintenance and service shall be paid on a lump-sum, as needed basis based upon the carrier's individual consideration for that item.

"(5) PAYMENT FOR OXYGEN AND OXYGEN EQUIPMENT.—

"(A) IN GENERAL.—Payment for oxygen and oxygen equipment shall be made on a monthly basis in the monthly payment amount recognized under paragraph (9) for oxygen and oxygen equipment (other than portable oxygen equipment), subject to subparagraphs (B) and (C).

"(B) ADD-ON FOR PORTABLE OXYGEN EQUIPMENT.—When portable oxygen equipment is used, but subject to subparagraph (D), the payment amount recognized under subparagraph (A) shall be increased by the monthly payment amount recognized under paragraph (9) for portable oxygen equipment.

"(C) VOLUME ADJUSTMENT.—When the attending physician prescribes an oxygen flow rate—

"(i) exceeding 4 liters per minute, the payment amount recognized under subparagraph (A), subject to subparagraph (D), shall be increased by 50 percent, or

"(ii) of less than 1 liter per minute, the payment amount recognized under subparagraph (A) shall be decreased by 50 percent.

"(D) LIMIT ON ADJUSTMENT.—When portable oxygen equipment is used and the attending physician prescribes an oxygen flow rate exceeding 4 liters per minute, there shall only be an increase under either subparagraph (B) or (C), whichever increase is larger, and not under both such subparagraphs.

"(6) PAYMENT FOR OTHER COVERED ITEMS (OTHER THAN DURABLE MEDICAL EQUIPMENT).—Payment for other covered items (other than durable medical equipment and other covered items described in paragraph (3), (4), or (5)) shall be made in a lump-sum amount for the purchase of the item in the amount of the purchase price recognized under paragraph (8).

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"(7) PAYMENT FOR OTHER ITEMS OF DURABLE MEDICAL EQUIPMENT.—

"(A) IN GENERAL.—In the case of an item of durable medical equipment not described in paragraphs (2) through (6)—

"(i) payment shall be made on a monthly basis for the rental of such item during the period of medical need (but payments under this subparagraph may not extend over a period of continuous use of longer than 15 months), and, subject to subparagraph (B), the amount recognized for each such month is 10 percent of the purchase price recognized under paragraph (8) with respect to the item;

"(ii) during the succeeding 6-month period of medical need, no payment shall be made for rental or servicing of the item; and

"(iii) during the first month of each succeeding 6-month period of medical need, a service and maintenance payment may be made (for parts and labor not covered by the supplier's or manufacturer's warranty, as determined by the Secretary to be appropriate for the particular type of durable medical equipment) and the amount recognized for each such 6-month period is the lower of (I) a reasonable and necessary maintenance and servicing fee established by the carrier, or

(II) 10 percent of the total of the purchase price recognized under paragraph (8) with respect to the item.

The Secretary shall determine the meaning of the term 'continuous' in subparagraph (A).

"(B) RANGE FOR RENTAL AMOUNTS.—

"(i) FOR 1989.—For items furnished during 1989, the payment amount recognized under subparagraph (A)(i) shall not be more than 115 percent, and shall not be less than 85 percent, of the prevailing charge established for rental of the item January 1987, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December [———].[348]

"(ii) FOR 1990.—For items furnished during 1990, the payment amount recognized under subparagraph (A)(i) shall not be more than the maximum amount established under clause (i), and shall not be less than the minimum amount established under such clause, for 1989, each such amount increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month peri ending with June 1989.

"(8) PURCHASE PRICE RECOGNIZED FOR MISCELLANEOUS DEVICES AND ITEMS.—For purposes of paragraphs (6) and (7), the amount that is recognized under this paragraph as the purchase price for a covered item is the amount described in subparagraph (C) of this paragraph, determined as follows:

"(A) COMPUTATION OF LOCAL PURCHASE PRICE.—Each carrier under section 1842 shall compute a base local purchase price for the item as follows:

"(i) The carrier shall compute a base local purchase price, for each item described— 101 STAT. 1330-104

"(I) in paragraph (6) equal to the average allowable charge in the locality for the purchase of the item for the 12-month period ending with June 1987, or

"(II) in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.

"(ii) The carrier shall compute a local purchase price, with respect to the furnishing of each particular item—

"(I) in 1989, equal to the base local purchase price computed under clause (i) increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987, or

"(II) in 1990, 1991, or 1992, equal to the local purchase price computed under this clause for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(B) COMPUTATION OF REGIONAL PURCHASE PRICE.—With respect to the furnishing of a particular item in each region (as defined in section 1886(d)(2)(D)), the Secretary shall compute a regional purchase price—

"(i) for 1991, and for 1992, equal to the average (weighted by relative volume of all claims among carriers) of the local purchase prices for the carriers in the region computed under subparagraph (A)(ii)(II) for the year, and

[348] Copy not legible.

"(ii) for each subsequent year, equal to the regional purchase price computed under this subparagraph for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(C) PURCHASE PRICE RECOGNIZED.—For purposes of paragraphs (6) and (7) and subject to subparagraph (D), the amount that is recognized under this paragraph as the purchase price for each item furnished—

"(i) in 1989 or 1990, is 100 percent of the local purchase price computed under subparagraph (A)(ii)(I);

"(ii) in 1991, is the sum of (I) 75 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1991, and (II) 25 percent of the regional purchase price computed under subparagraph (B) for 1991;

"(iii) in 1992, is the sum of (I) 50 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1992, and (II) 50 percent of the regional purchase price computed under subparagraph (B) for 1992; and

"(iv) in 1993 or a subsequent year, is the regional purchase price computed under subparagraph (B) for that year.

"(D) RANGE ON AMOUNT RECOGNIZED.—The amount that is recognized under subparagraph (C) as the purchase price for an item furnished— 101 STAT. 1330-105

"(i) in 1991, may not exceed 130 percent, and may not be lower than 80 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year; and

"(ii) in a subsequent year, may not exceed 125 percent, and may not be lower than 85 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year.

"(9) MONTHLY PAYMENT AMOUNT RECOGNIZED WITH RESPECT TO OXYGEN AND OXYGEN EQUIPMENT.—For purposes of paragraph (5), the amount that is recognized under this paragraph for payment for oxygen and oxygen equipment is the monthly payment amount described in subparagraph (C) of this paragraph. Such amount shall be computed separately (i) for all items of oxygen and oxygen equipment (other than portable oxygen equipment) and (ii) for portable oxygen equipment (each such group referred to in this paragraph as an 'item').

"(A) COMPUTATION OF LOCAL MONTHLY PAYMENT RATE.—Each carrier under this section shall compute a base local payment rate for each item as follows:

"(i) The carrier shall compute a base local average monthly payment rate per beneficiary as an amount equal to (I) the total reasonable charges for the item during the 12-month period ending with December 1986, divided by (II) the total number of months for all beneficiaries receiving the item in the area during the 12-month period for which the carrier made payment for the item under this title.

"(ii) The carrier shall compute a local average monthly payment rate for the item applicable—

"(I) to 1989, equal to 95 percent of the base local average monthly payment rate computed under clause (i) for the item increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with December 1987, or

"(II) to 1990 and to 1991, equal to the local average monthly payment rate computed under

this clause for the item for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(B) COMPUTATION OF REGIONAL MONTHLY PAYMENT RATE.—With respect to the furnishing of an item in each region (as defined in section 1886(d)(2)(D)), the Secretary shall compute a regional monthly payment rate—

"(i) for 1991, and 1992, equal to the average (weighted by relative volume of all claims among carriers) of the local monthly payment rates for the carriers in the region computed under subparagraph (A)(ii)(II) for the year, and

"(ii) for each subsequent year, equal to the regional monthly payment rates computed under this subparagraph for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

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"(C) MONTHLY PAYMENT AMOUNT RECOGNIZED.—For purposes of paragraph (5), the amount that is recognized under this paragraph as the base monthly payment amount for each item furnished—

"(i) in 1989 and in 1990, is 100 percent of the local average monthly payment rate computed under subparagraph (A)(ii)(I) for the item;

"(ii) in 1991, is the sum of (I) 75 percent of the local average monthly payment rate computed under subparagraph (A)(ii)(II) for the item for 1991, and (II) 25 percent of the regional monthly payment rate computed under subparagraph (B)(i) for the item for 1991;

"(iii) in 1992, is the sum of (I) 50 percent of the local average monthly payment rate computed under subparagraph (A)(ii)(II) for the item for 1992, and (II) 50 percent of the regional monthly payment rate computed under subparagraph (B)(i) for the item for 1992; and

"(iv) in a subsequent year, is the regional monthly payment rate computed under subparagraph (B) for the item for that year.

"(D) RANGE ON AMOUNT RECOGNIZED.—The amount that is recognized under subparagraph (C) as the base monthly payment amount for an item furnished—

"(i) in 1991, may not exceed 130 percent, and may not be lower than 80 percent, of the average of the base monthly payment amounts recognized under such subparagraph for all the carrier service areas in the United States in that year; and

"(ii) in a subsequent year, may not exceed 125 percent, and may not be lower than 85 percent, of the average of the base monthly payment amounts recognized under such subparagraph for all the carrier service areas in the United States in that year.

"(10) EXCEPTIONS AND ADJUSTMENTS.—

"(A) AREAS OUTSIDE CONTINENTAL UNITED STATES.—Exceptions to the amounts recognized under the previous provisions of this subsection shall be made to take into account the unique circumstances of covered items furnished in Alaska, Hawaii, or Puerto Rico.

"(B) ADJUSTMENT FOR INHERENT REASONABLENESS.—For covered items furnished on or after January 1, 1991, the Secretary is authorized to apply the provisions of paragraphs (8) and (9) (other than subparagraph (D)) of section 1842(b) to covered items and suppliers of such items.

"(C) TRANSCUTANEOUS ELECTRICAL NERVE STIMULATOR (TENS).—In order to permit an attending physician time to determine whether the purchase of a transcutaneous electrical nerve stimulator is medically appropriate for a particular patient, the Secretary may determine an appropriate payment amount for the initial rental of such item for a period of not more than 2 months. If such item is subsequently purchased, the payment amount with respect to such purchase is the payment amount determined under paragraph (2). 101 STAT. 1330-107

"(11) IMPROPER BILLING AND REQUIREMENT OF PHYSICIAN ORDER.—

"(A) IMPROPER BILLING FOR CERTAIN RENTAL ITEMS.—Notwithstanding any other provision of this title, a supplier of a covered item for which payment is made under this subsection and which is furnished on a rental basis shall continue to supply the item without charge (other than a charge provided under this subsection for the servicing of the item) after rental payments may no longer be made under this subsection. If a supplier knowingly and willfully violates the previous sentence, the Secretary may apply sanctions against the supplier under subsection (j)(2) in the same manner such sanctions may apply with respect to a physician.

"(B) REQUIREMENT OF PHYSICIAN ORDER.—The Secretary is authorized to require, for specified covered items, that payment may be made under this subsection with respect to the item only if a physician has communicated to the supplier, before delivery of the item, a written order for the item.

"(12) REGIONAL CARRIERS.—The Secretary may designate, by regulation under section 1842, one carrier for each region (as defined in section 1886(d)(2)(D)) to process all claims within the region for covered items under this section.

"(13) COVERED ITEM.—In this subsection, the term 'covered item' means—

"(A) durable medical equipment (as defined in section 1861(n)), including such equipment described in section 1861(m)(5);

"(B) prosthetic devices (described in section 1861(s)(8)), but not including parenteral and enteral nutrition nutrients, supplies, and equipment; and

"(C) orthotics and prosthetics (described in section 1861(s)(9));

but does not include intraocular lenses.

"(14) CARRIER.—In this subsection, any reference to the term 'carrier' includes a reference, with respect to durable medical equipment furnished by a home health agency as part of home health services, to a fiscal intermediary.".

(c) STUDY AND EVALUATION.—(1) The Secretary of Health and Human Services shall monitor the impact of the amendments made by this section on the availability of covered items and shall evaluate the appropriateness of the volume adjustment for oxygen and oxygen equipment under section 1834(a)(5)(C) of the Social Security Act (as amended by subsection (b) of this section). The Secretary shall report to Congress, by not later than January 1, 1991, on such impact and on the evaluation and shall include in such report recommendations for changes in payment methodology for covered items under section 1834(a) of such Act. 42 USC 1395m note. Reports.

(2) Before January 1, 1991, the Secretary may not conduct any demonstration project respecting alternative methods of payment for covered items under title XVIII of the Social Security Act.

(3) In this subsection, the term "covered item" has the meaning given such term in section 1834(a)(13) of the Social Security Act (as amended by subsection (b) of this section).

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(4) The Secretary shall, upon written request, provide the data and information used in determining the payment amounts for covered items under section 1834(a) of the Social Security Act.

Reports.

(5) The Comptroller General shall conduct a study on the appropriateness of the level of payments allowed for covered items under the medicare program, and shall report to Congress on the results of such study (including recommendations on the transition to regional or national rates) by not later than January 1, 1991. Entities furnishing such items which fail to provide the Comptroller General with reasonable access to necessary records to carry out the study under this paragraph are subject to exclusion from the medicare program under section 1128(a) of the Social Security Act.

(d) CONFORMING AMENDMENTS.—

(1) Section 1814 of such Act (42 U.S.C. 1395f) is amended—

(A) in subsection (j)(2)(B), by amending subparagraph (B) to read as follows:

"(B) Section 1834(a)(1)(B).", and

(B) in subsection (k), by striking all that follows "shall be" and insert "the amount described in section 1834(a)(1).".

(2) Section 1832(a) of such Act (42 U.S.C. 1395k(a)) is amended—

(A) in paragraph (2)(A), by inserting "(other than items described in subparagraph (G))" after "services";

(B) in paragraph (2)(B), by inserting "(other than items described in subparagraph (G))" after "medical and other health services"; and

(C) in paragraph (2)—

(i) by striking "and" at the end of subparagraph (E),

(ii) by striking the period at the end of subparagraph (F) and inserting "; and", and

(iii) by adding at the end the following new subparagraph:

"(G) covered items (described in section 1834(a)(13)) furnished by a provider of services or by others under arrangements with them made by a provider of services.".

42 USC 1395l.

(3) Section 1833(a) of such Act (42 U.S.C. 1395l(a)) is amended—

(A) in paragraph (1)—

(i) by striking "; and" at the end of clause (G) and inserting a comma, and

(ii) by adding at the end the following: "and (I) with respect to covered items (described in section 1834(a)(13)), the amounts paid shall be the amounts described in section 1834(a)(1),";

(B) in paragraph (2)—

(i) by striking "and (F)" and inserting "(F), and (G)", and

(ii) in subparagraph (A), by striking "(other than durable medical equipment)";

[34b](C) by striking "and" at the end of paragraph (3);

[34c](D) by striking the period at the end of paragraph (4) and inserting "; and"; and

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[34d](E) by adding at the end the following new paragraph:

"(5) in the case of covered items (described in section 1834(a)(13)) the amounts described in section 1834(a)(1).".

(4) Section 1866(a)(2)(A) of such Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence of this subparagraph, a home health agency may charge such an individual or person, with respect to covered items subject to payment under section

[34b] Copy read "(B)".
[34c] Copy read "(C)".
[34d] Copy read "(D)".

1834(a), the amount of any deduction imposed under section 1833(b) and 20 percent of the payment basis described in section 1834(a)(2).".

(5) Section 1889 of such Act (42 U.S.C. 1395zz) is repealed. 42 USC 1395zz.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to covered items furnished on or after January 1, 1989. 42 USC 1395f note.

SEC. 4063. PAYMENT FOR INTRAOCULAR LENSES.

(a) PROVIDED IN PHYSICIAN'S OFFICE.—Section 1842 of the Social Security Act (42 U.S.C. 1395u), as previously amended is amended—

(1) in subsection (b)(11)(C), as inserted by section 4046(a)(1)(C) of this subtitle—

(A) by inserting "(i)" after "(C)" and by adding at the end the following new clause:

"(ii) The reasonable charge for an intraocular lens implanted during cataract surgery in a physician's office may not exceed the actual acquisition cost for the lens (taking into account any discount) plus a handling fee (not to exceed 5 percent of such actual acquisition cost).", and

(B)[35] in subparagraph (D), as so redesignated and as amended by section 4046(a)(1) of this subtitle, by inserting "or item" after "service" or "services" each place either appears; and

(2) in subsection (j)(1)(D), as added by section 4045(c)(1)(B) of this subtitle and as amended by 4046(a)(2) of this subtitle—

(A) in clause (ii), by striking "and" at the end of subclause (IV), by redesignating subclause (V) as subclause (VI) and by inserting before such subclause the following new subclause:

"(IV) a reasonable charge limit is established under subsection (b)(11)(C)(ii), and"; and

(B) in clause (iii)—

(i) by striking "or" at the end of subclause (I),

(ii) in subclause (II), by striking "(b)(11)(C)" and inserting "(b)(11)(C)(i)",

(iii) by striking the period at the end of subclause (II) and inserting "; or", and

(iv) by adding at the end the following new subclause:

"(III) under subsection (b)(11)(C)(ii), the payment allowance established under such subsection.".

(b) PROVIDED IN AMBULATORY SURGICAL CENTERS.—Section 1833(i)(2)(A) of such Act (42 U.S.C. 1395l(i)(2)(A)) is amended— 42 USC 1395l.

(1) by striking "and" at the end of clause (i),

(2) by striking the period at the end of clause (ii) and inserting ", and", and

(3) by inserting after clause (ii) the following new clause: 101 STAT. 1330-110

"(iii) in the case of implantation of an intraocular lens during cataract surgery includes payment which is reasonable and related to the cost of acquiring the class of lens involved.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after July 1, 1988. 42 USC 1395l note.

(d) SPECIAL RULE.—With respect to the[35a] establishment of a reasonable charge limit under section 1842(b)(11)(C)(ii) of the Social Security Act, in applying section 1842(j)(1)(D)(i) of such Act, the matter beginning with "plus" shall be considered to have been deleted. 42 USC 1395u note.

SEC. 4064. CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) LIMITATION ON CHANGES IN FEE SCHEDULES.— 42 USC 1395l note.

(1) 3-MONTH FREEZE IN [illegible] SCHEDULES.—Notwithstanding any other provision of law, any change in the fee schedules for clinical laboratory diagnostic laboratory tests under part B of

[35] Copy read "(C)".
[35a] Copy read "the the".

title XVIII of such Act which would have become effective for tests furnished on or after January 1, 1988, shall not be effective for tests furnished during the 3-month period beginning on January 1, 1988.

(2) NO CPI INCREASE IN 1988.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not adjust the fee schedules established under section 1833(h) of the Social Security Act for 1988 to take into account any increase in the consumer price index.

(b) FEE SCHEDULES AND PAYMENT LIMITS.—

42 USC 1395*l*.

(1) REBASING OF FEE SCHEDULES FOR CERTAIN AUTOMATED AND SIMILAR TESTS.—Section 1833(h)(2) of the Social Security Act (42 U.S.C. 1395l(h)(2)) is amended by adding at the end the following: "In establishing fee schedules under the first sentence of this paragraph with respect to automated tests and tests (other than cytopathology tests) which before July 1, 1984, the Secretary made subject to a limit based on lowest charge levels under the sixth sentence of section 1842(b)(3) performed after March 31, 1988, the Secretary shall reduce by 8.3 percent the fee schedules otherwise established for 1988.".

(2) NATIONWIDE PAYMENT LIMITS.—Section 1833(h)(4)(B) of such Act is amended—

(A) in clause (i), by striking "January" and inserting "April", and

(B) by amending clause (ii) to read as follows:

"(ii) March 31, 1988, and so long as a fee schedule for the test has not been established on a nationwide basis, is equal to the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

42 USC 1395*l* note.

(3) EFFECTIVE DATES.—The amendments made by paragraphs (1) and (2) shall apply with respect to services furnished on or after April 1, 1988.

42 USC 1395*l* note.

(4) GAO STUDY OF FEE SCHEDULES.—The Comptroller General shall conduct a study of the level of the fee schedules established for clinical diagnostic laboratory services under section 1833(h)(2) of the Social Security Act to determine, based on the costs of, and revenues received for, such tests the appropriateness of such schedules. The Comptroller General shall report to the Congress on the results of such study by not later than January 1, 1990. Suppliers of such tests which fail to provide the Comptroller General with reasonable access to necessary records to carry out the study under this paragraph are subject to exclusion from the medicare program under section 1128(a) of the Social Security Act.

Reports.

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42 USC 1395*l*.

(c) LIMITATION ON APPLICATION OF 2 PERCENT HOSPITAL LAB DIFFERENTIAL.—Section 1833(h)(2) of such Act is amended by striking "hospital laboratory" and inserting "laboratory in a sole community hospital".

(d) INTERMEDIATE SANCTIONS.—

(1) Part B of title XVIII of such Act is amended by adding at the end thereof the following new section:

"INTERMEDIATE SANCTIONS FOR PROVIDERS OF CLINICAL DIAGNOSTIC LABORATORY TESTS [35b]

42 USC 1395w-2.

"SEC. 1846. (a) If the Secretary determines that any provider or clinical laboratory certified for participation under this title no longer substantially meets the conditions of participation specified under this title with respect to the provision of clinical diagnostic laboratory tests under this part, the Secretary may (for a period not to exceed one year) impose intermediate sanctions developed pursuant to subsection (b), in lieu of canceling immediately the certification of the provider or clinical laboratory.

[35b] Copy read "TESTS".

"(b)(1) The Secretary shall develop and implement—

"(A) a range of intermediate sanctions to apply to providers or certified clinical laboratories under the conditions described in subsection (a), and

"(B) appropriate procedures for appealing determinations relating to the imposition of such sanctions.

"(2)(A) The intermediate sanctions developed under paragraph (1) shall include—

"(i) directed plans of correction,

"(ii) civil fines and penalties,

"(iii) payment for the costs of onsite monitoring by an agency responsible for conducting certification surveys, and

"(iv) suspension of all or part of the payments to which a provider or certified clinical laboratory would otherwise be entitled under this title with respect to clinical diagnostic laboratory tests provided on or after the date in which the Secretary determines that intermediate sanctions should be imposed pursuant to subsection (a).[36]

"(B) The sanctions specified in subparagraph (A) are in addition to sanctions otherwise available under State or Federal law.

"(3) The Secretary shall develop and implement specific procedures with respect to when and how each of the intermediate sanctions developed under paragraph (1) is to be applied, the amounts of any fines, and the severity of each of these penalties. Such procedures shall be designed so as to minimize the time between identification of violations and imposition of these sanctions and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.".

(2) The amendment made by paragraph (1) shall become effective on January 1, 1990. Effective date. 42 USC 1395w-2 note.

(e) STATE CERTIFICATION OF HIGH-VOLUME PHYSICIAN OFFICE LABS.—

(1) Section 1861(s) of such Act (42 U.S.C. 1395x(s)) is amended, in the sentence following paragraph (11), by inserting "a laboratory not independent of a physician's office that has a volume of clinical diagnostic laboratory tests exceeding 5,000 per year" after "physician's office,". 101 STAT. 1330-112

(2) The amendment made by paragraph (1) shall apply to diagnostic tests performed on or after January 1, 1990. 42 USC 1395x note.

SEC. 4065. RETURN ON EQUITY PAYMENTS TO OUTPATIENT DEPARTMENTS.

(a) IN GENERAL.—Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end thereof the following new subparagraph:

"(S) Such regulations shall not include provision for specific recognition of any return on equity capital with respect to hospital outpatient departments.".

(b) CONFORMING AMENDMENT.—Section 1881(b)(2)(C) of such Act (42 U.S.C. 1395rr(b)(2)(C)) is amended by striking "facilities" and inserting "facilities (other than hospital outpatient departments)".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on January 1, 1988. 42 USC 1395x note.

SEC. 4066. PAYMENTS TO HOSPITAL OUTPATIENT DEPARTMENTS FOR RADIOLOGY.

(a) AMOUNTS PAYABLE.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended—

(1) in subsection (a)(2)—

(A) by striking "and" in subparagraph (C),

(B) by adding "and" at the end of subparagraph (D), and

(C) by adding at the end thereof the following new subparagraph:

"(E) with respect to—

[36] Subparagraphs "(i)", "(ii)", "(iii)", and "(iv)" indented incorrectly

"(i) outpatient hospital radiology services (including diagnostic and therapeutic radiology, nuclear medicine and CAT scan procedures, magnetic resonance imaging, and ultrasound and other imaging services), and

"(ii) effective for procedures performed on or after October 1, 1989, diagnostic procedures (as defined by the Secretary) described in section 1861(s)(3) (other than diagnostic x-ray tests and diagnostic laboratory tests),

the amount determined under subsection (n);"; and

(2) by adding at the end, as previously amended, the following new subsection:

"(n)(1)(A) The aggregate amount of the payments to be made for all or part of a cost reporting period beginning on or after October 1, 1988 under this part for services described in subsection (a)(2)(E) shall be equal to the lesser of—

"(i) the amount determined with respect to such services under subsection (a)(2)(B), or

"(ii) the blend amount for radiology services and diagnostic procedures determined in accordance with subparagraph (B).

"(B)(i) The blend amount for radiology services and diagnostic procedures for a cost reporting period is the sum of—

"(I) the cost proportion (as defined in clause (ii)) of the amount described in subparagraph (A)(i); and

"(II) the charge proportion (as defined in clause (ii)(II)) of 62 percent (for services described in subsection (a)(2)(E)(i)), or (for procedures described in subsection (a)(2)(E)(ii)), 42 percent or such other percent established by the Secretary (or carriers acting pursuant to guidelines issued by the Secretary) based on prevailing charges established with actual charge data, of 80 percent of the prevailing charge for participating physicians for the same services as if they were furnished in a physician's office in the same locality as determined under section 1842(b).

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"(ii) In this subparagraph:

"(I) The term 'cost proportion' means 65 percent for all or any part of cost reporting periods which occur in fiscal year 1989 and 50 percent for other cost reporting periods.

"(II) The term 'charge proportion' means 35 percent for all or any parts of cost reporting periods which occur in fiscal year 1989 and 50 percent for other cost reporting periods.".

(b) CONFORMING AMENDMENT.—Section 1833(a)(2)(B) of such Act (42 U.S.C. 1395l(a)(2)(B)) is amended in the matter preceding clause (i) by striking "(C) or (D)" and inserting "(C), (D), or (E)".

42 USC 1395l note.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to outpatient hospital radiology services furnished on or after October 1, 1988, and other diagnostic procedures performed on or after October 1, 1989.

SEC. 4067. UPDATING MAXIMUM RATE OF PAYMENT PER VISIT FOR INDEPENDENT RURAL HEALTH CLINICS.

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is further amended by inserting after subsection (e) the following new subsection:

"(f) In establishing limits under subsection (a) on payment for rural health clinic services provided by independent rural health clinics, the Secretary shall establish such limit, for services provided—

"(1) in 1988, after March 31, at $46, and

"(2) in a subsequent year, at the limit established under this subsection for the previous year increased by the percentage increase in the medicare economic index (referred to in the fourth sentence of section 1842(b)(3)) applicable to physicians' services furnished as of the first day of that year.".

42 USC 1395l note.

(b) REPORT ON RATES.—The Secretary of Health and Human Services shall report to Congress, by not later than March 1, 1989, on the

adequacy of the amounts paid under title XVIII of the Social Security Act for rural health clinic services provided by independent rural health clinics.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after April 1, 1988. 42 USC 1395*l* note.

SEC. 4068. PAYMENT FOR AMBULATORY SURGERY AT EYE, AND EYE AND EAR, SPECIALTY HOSPITALS.

(a) IN GENERAL.—Section 1833(i)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395l(i)(3)(B)(ii)) is amended—

(1) by striking "In" and inserting "Subject to the last sentence of this clause, in"; and

(2) by adding at the end thereof the following:

"In the case of a hospital that makes application to the Secretary and demonstrates that it specializes in eye services or eye and ear services (as determined by the Secretary), receives more than 30 percent of its total revenues from outpatient services and was an eye specialty hospital or an eye and ear specialty hospital on October 1, 1987, the cost proportion and ASC proportion in effect under subclauses (I) and (II) for cost reporting periods beginning in fiscal year 1988 shall remain in effect for cost reporting periods beginning in fiscal year 1989 or fiscal year 1990.". 101 STAT. 1330-114

(b) DEVELOPMENT OF PROSPECTIVE PAYMENT METHODOLOGY FOR OUTPATIENT HOSPITAL SERVICES.—Section 1135(d) of the Social Security Act (42 U.S.C. 1320b-5(d)) is amended—

(1) by adding at the end of paragraph (3) the following: "In establishing such rates, the Secretary shall consider whether a differential payment rate is appropriate for speciality hospitals."; and

(2) by adding at the end the following new paragraph:

"(7) The Secretary shall solicit the views of the Prospective Payment Assessment Commission in developing the systems under paragraphs (1) and (6), and shall include in the Secretary's reports under this subsection any views the Commission may submit with respect to such systems.".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the amendment made by section 9343(a)(1)(B) of the Omnibus Budget Reconciliation Act of 1986. 42 USC 1395*l*.

Subpart C—Eligibility and Benefits Changes

SEC. 4070. COVERAGE OF MENTAL HEALTH SERVICES.

(a) OUTPATIENT SERVICES UNDER PART B.—Section 1833(c) of the Social Security Act (42 U.S.C. 1395l(c)) is amended— 42 USC 1395*l* note.

(1) by striking "$312.50" and inserting "$1375.00"; and

(2) by adding at the end thereof the following:

"For purposes of this subsection, the term 'treatment' does not include brief office visits (as defined by the Secretary) for the sole purpose of prescribing or monitoring prescription drugs used in the treatment of such disorders.".

(b) PARTIAL HOSPITALIZATION COVERAGE.—

(1) Section 1861(s)(2)(B) of such Act (42 U.S.C. 1395x(s)(2)(B)) is amended by inserting "and partial hospitalization services incident to such services" before the semicolon.

(2) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"(ff)(1) The term 'partial hospitalization services' means the items and services described in paragraph (2) prescribed by a physician and provided under a program described in paragraph (3) under the supervision of a physician pursuant to an individualized, written plan of treatment established and periodically reviewed by a physician (in consultation with appropriate staff participating in such program), which plan sets forth the physician's diagnosis, the type,

amount, frequency, and duration of the items and services provided under the plan, and the goals for treatment under the plan.

"(2) The items and services described in this paragraph are—

"(A) individual and group therapy with physicians or psychologists (or other mental health professionals to the extent authorized under State law),

"(B) occupational therapy requiring the skills of a qualified occupational therapist,

"(C) services of social workers, trained psychiatric nurses, and other staff trained to work with psychiatric patients,

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"(D) drugs and biologicals furnished for therapeutic purposes (which cannot, as determined in accordance with regulations, be self-administered),

"(E) individualized activity therapies that are not primarily recreational or diversionary,

"(F) family counseling (the primary purpose of which is treatment of the individual's condition),

"(G) patient training and education (to the extent that training and educational activities are closely and clearly related to individual's care and treatment),

"(H) diagnostic services, and

"(I) such other items and services as the Secretary may provide (but in no event to include meals and transportation);

that are reasonable and necessary for the diagnosis or active treatment of the individual's condition, reasonably expected to improve or maintain the individual's condition and functional level and to prevent relapse or hospitalization, and furnished pursuant to such guidelines relating to frequency and duration of services as the Secretary shall by regulation establish (taking into account accepted norms of medical practice and the reasonable expectation of patient improvement).

"(3) A program described in this paragraph is a program which is hospital-based or hospital-affiliated (as defined by the Secretary) and which is a distinct and organized intensive ambulatory treatment service offering less than 24-hour-daily care.".

(3) Section 1835(a)(2) of such Act (42 U.S.C. 1395n(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(C) by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of partial hospitalization services, (i) the individual would require inpatient psychiatric care in the absence of such services, (ii) an individualized, written plan for furnishing such services has been established by a physician and is reviewed periodically by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.".

(4) Section 1833(c) of such Act, as amended by subsection (a), is further amended at the end thereof by inserting "or partial hospitalization services that are not directly provided by a physician" before the period.

(c) EFFECTIVE DATE; IMPLEMENTATION.—

42 USC 1395*l* note.

(1) The amendment made by subsection (a)(1) shall apply with respect to calendar years beginning with 1988; except that with respect to 1988, any reference in section 1833(c) of the Social Security Act, as amended by subsection (a), to "$1375.00" is deemed a reference to "$562.50". The amendment made by subsection (a)(2) shall apply to services furnished on or after January 1, 1989.

42 USC 1395x note.

(2)(A) The amendments made by subsection (b) shall become effective on the date of enactment of this Act.

(B) The Secretary of Health and Human Services shall implement the amendments made by subsection (b) so as to ensure

that there is no additional cost to the medicare program by reason of such amendments.

101 STAT. 1330-116

SEC. 4071. COVERAGE OF INFLUENZA VACCINE AND ITS ADMINISTRATION.

(a) IN GENERAL.—Section 1861(s)(10)(A) of the Social Security Act (42 U.S.C. 1395x(a)(10)(A)) is amended by inserting before the semicolon the following: "and influenza vaccine and its administration".

(b) CONTINGENT EFFECTIVE DATE; DEMONSTRATION PROJECT.— 42 USC 1395x note.

(1) The provisions of subsection (e) of section 4072 of this subpart shall apply to this section in the same manner as it applies to section 4072.

(2) In conducting the demonstration project pursuant to paragraph (1), in order to determine the cost effectiveness of including influenza vaccine in the medicare program, the Secretary of Health and Human Services is required to conduct a demonstration of the provision of influenza vaccine as a service for medicare beneficiaries and to expend $25,000,000 each year of the demonstration project for this purpose. In conducting this demonstration, the Secretary is authorized to purchase in bulk influenza vaccine and to distribute it in a manner to make it widely available to medicare beneficiaries, to develop projects to provide vaccine in the same manner as other covered medicare services in large scale demonstration projects, including statewide projects, and to engage in other appropriate use of moneys to provide influenza vaccine to medicare beneficiaries and evaluate the cost effectiveness of its use. In determining cost effectiveness, the Secretary shall consider the direct cost of the vaccine, the utilization of vaccine which might otherwise not have occurred, the costs of illnesses and nursing home days avoided, and other relevant factors, except that extended life for beneficiaries shall not be considered to reduce the cost effectiveness of the vaccine.

SEC. 4072. PAYMENT FOR THERAPEUTIC SHOES FOR INDIVIDUALS WITH SEVERE DIABETIC FOOT DISEASE.

(a) COVERAGE UNDER PART B.—Section 1861(s) of the Social Security Act (42 U.S.C. 1395x(s)) is amended—

(1) by redesignating paragraphs (12) through (15) as paragraphs (13) through (16), respectively,

(2) by striking out "and" at the end of paragraph (10),

(3) by striking out the period at the end of paragraph (11) and inserting "; and", and

(4) by inserting after paragraph (11) the following new paragraph:

"(12) extra-depth shoes with inserts or custom molded shoes for an individual with diabetes, if—

"(A) the physician who is managing the individual's diabetic condition (i) documents that the individual has peripheral neuropathy with evidence of callus formation, a history of pre-ulcerative calluses, a history of previous ulceration, foot deformity, or previous amputation, or poor circulation, and (ii) certifies that the individual needs such shoes under a comprehensive plan of care related to the individual's diabetic condition;

"(B) the particular type of shoes are prescribed by a podiatrist or other qualified physician (as established by the Secretary); and

"(C) the shoes are fitted and furnished by a podiatrist or other qualified individual (such as a pedorthist or orthotist, as established by the Secretary) who is not the physician described in subparagraph (A) (unless the Secretary finds that the physician is the only such qualified individual in the area).".

101 STAT. 1330-117

(b) LIMITATION ON BENEFIT.—Section 1833 of such Act (42 U.S.C. 1395) is amended by inserting after subsection (e) the following new subsection: 42 USC 1395*l*.

"(f)(1) In the case of shoes described in section 1861(s)(12)—

"(A) no payment may be made under this part for the furnishing of more than one pair of shoes for any individual for any calendar year, and

"(B) with respect to expenses incurred in any calendar year, no more than the limit established under paragraph (2) shall be considered as incurred expenses for purposes of subsections (a) and (b).

Payment for shoes under this part shall be considered to include payment for any expenses for the fitting of such shoes.

"(2)(A) Except as provided by the Secretary under subparagraphs (B) and (C), the limit established under this paragraph—

"(i) for the furnishing of one pair of custom molded shoes is $300;

"(ii) for the furnishing of extra-depth shoes and inserts is—

"(I) $100 for the pair of shoes itself, and

"(II) $50 for inserts for a pair of shoes.

"(B) The Secretary or a carrier may establish limits for shoes that are lower than the limits established under subparagraph (A) if the Secretary finds that shoes and inserts of an appropriate quality are readily available at or below such lower limits.

"(C) For each year after 1988, each dollar amount under subparagraph (A) or (B) (as previously adjusted under this subparagraph) shall be increased by the same percentage increase as the Secretary provides with respect to durable medical equipment for that year, except that if such increase is not a multiple of $1, it shall be rounded to the nearest multiple of $1.

"(3) In this title, the term 'shoes' includes, except for purposes of subparagraphs (A)(ii) and (B) of paragraph (2), inserts for extra-depth shoes.".

(c) MODIFICATION OF EXCLUSION.—Section 1862(a)(8) of such Act (42 U.S.C. 1395y(a)(8)) is amended by inserting ", other than shoes furnished pursuant to section 1861(s)(12)" before the semicolon.

(d) CONFORMING AMENDMENTS.—Sections 1864(a), 1865(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) of such Act (42 U.S.C. 1395aa(a), 1395bb(a), 1396a(a)(9)(C), 1396n(a)(1)(B)(ii)(I)) are each amended by striking out "paragraphs (12) and (13)" and inserting "paragraphs (13) and (14)".

42 USC 1395x note.

(e) CONTINGENT EFFECTIVE DATE; DEMONSTRATION PROJECT.—

(1) The amendments made by this section shall become effective (if at all) in accordance with paragraph (2).

(2)(A) The Secretary of Health and Human Services (in this paragraph referred to as the "Secretary"), shall establish a demonstration project to begin on October 1, 1988, to test the cost-effectiveness of furnishing therapeutic shoes under the medicare program to the extent provided under the amendments made by this section to a sample group of medicare beneficiaries.

Reports.

(B)(i) The demonstration project under subparagraph (A) shall be conducted for an initial period of 24 months. Not later than October 1, 1990, the Secretary shall report to the Congress on the results of such project. If the Secretary finds, on the basis of existing data, that furnishing therapeutic shoes under the medicare program to the extent provided under the amendments made by this section is cost-effective, the Secretary shall include such finding in such report, such project shall be discontinued, and the amendments made by this section shall become effective on November 1, 1990.

101 STAT. 1330–118

Effective date.

Reports.

(ii) If the Secretary determines that such finding cannot be made on the basis of existing data, such project shall continue for an additional 24 months. Not later than April 1, 1993, the Secretary shall submit a final report to the Congress on the results of such project. The amendments made by this section shall become effective on the first day of the first month to begin after such report is submitted to the Congress unless the report contains a finding by the Secretary that furnishing

Effective date.

therapeutic shoes under the medicare program to the extent provided under the amendments made by this section is not cost-effective (in which case the amendments made by this section shall not become effective).

SEC. 4073. COVERAGE OF CERTIFIED NURSE-MIDWIFE SERVICES.

(a) COVERAGE OF SERVICES.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (J);

(2) by adding "and" at the end of subparagraph (K); and

(3) by adding at the end thereof the following new subparagraph:

"(L) certified nurse-midwife services;".

(b) PAYMENT OF BENEFITS.—

(1) Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) by striking "and" at the end of clause (ii);

(B) by striking the semicolon at the end of clause (iii) and inserting a comma; and

(C) by adding at the end thereof the following new clause:

"(iv) certified nurse-midwife services; and".

(2) Section 1833(a)(1) of such Act (42 U.S.C. 1395k(a)(1)) is amended— 42 USC 1395*l*.

(A) by striking "and" at the end of clause (F);

(B) by striking "services; and" in clause (G) and inserting "services,"; and

(C) [37] by adding at the end thereof the following: "and (I) with respect to certified nurse-midwife services under section 1861(s)(2)(L), the amounts paid shall be the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph (but in no event more than 65 percent of the prevailing charge that would be allowed for the same service performed by a physician);".

(3) Section 1833 of such Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(m) In the case of certified nurse-midwife services for which payment may be made under this part only pursuant to section 1861(s)(2)(L), payment may only be made under this part for such services on an assignment-related basis.". 101 STAT. 1330-119

(c) DEFINITION.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"Certified Nurse-Midwife Services

"(ff)(1) The term 'certified nurse-midwife services' means such services furnished by a certified nurse-midwife (as defined in paragraph (2)) and such services and supplies furnished as an incident to his service which the certified nurse-midwife is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician or as an incident to a physician's service.

"(2) The term 'certified nurse-midwife' means a registered nurse who has successfully completed a program of study and clinical experience meeting guidelines prescribed by the Secretary, or has been certified by an organization recognized by the Secretary, and performs services in the area of management of the care of mothers and babies throughout the maternity cycle.".

(d) [38] CONFORMING CHANGES.—

(1) Section 1905(a)(17) of such Act (42 U.S.C. 1396d(a)(17)) is amended by striking "as defined in subsection (m)" and inserting "as defined in section 1861(ff)".

(2) Section 1905 of such Act (42 U.S.C. 1396d) is amended by striking subsection (m).

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[37] Copy read "(D)".
[38] Copy read "(c)".

42 USC 1395k note.

(e) [39] EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to services performed on or after July 1, 1988.

SEC. 4074. COVERAGE OF SOCIAL WORKER SERVICES FURNISHED BY A HEALTH MAINTENANCE ORGANIZATION TO ITS MEMBERS.

(a) IN GENERAL.—Section 1861(s)(2)(H)(ii) of the Social Security Act (42 U.S.C. 1395x(s)(2)(H)(ii)) is amended—

(1) by inserting "or by a clinical social worker (as defined in subsection (ff))" after "clinical psychologist (as defined by the Secretary)"; and

(2) by striking "incident to his services" and inserting "incident to such clinical psychologist's services or clinical social worker's services".

(b) CLINICAL SOCIAL WORKER DEFINED.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Clinical Social Worker

"(ff) The term 'clinical social worker' means an individual who—

"(1) possesses a master's or doctor's degree in social work;

"(2) after obtaining such degree has performed at least 2 years of supervised clinical social work; and

"(3)(A) is licensed or certified as a clinical social worker by the State in which the services are performed, or

"(B) in the case of an individual in a State which does not provide for licensure or certification—

"(i) has completed at least 2 years or 3,000 hours of post-master's degree supervised clinical social work practice under the supervision of a master's level social worker in an appropriate setting (as determined by the Secretary), and

"(ii) meets such other criteria as the Secretary establishes.".

101 STAT. 1330-120

42 USC 1395x note.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to services performed on or after January 1, 1988.

SEC. 4075. CLARIFICATION OF COVERAGE OF DRUGS USED IN IMMUNOSUPPRESSIVE THERAPY.

(a) IN GENERAL.—Section 1861(s)(2)(J) of the Social Security Act (42 U.S.C. 1395x(s)(2)(J)) is amended by striking "immunosuppressive drugs" and inserting "prescription drugs used in immunosuppressive therapy".

42 USC 1395x note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs dispensed on or after the date of the enactment of this Act.

SEC. 4076. SERVICES OF A PHYSICIAN ASSISTANT.

(a) SERVICES COVERED.—Section 1861(s)(2)(K) of the Social Security Act (42 U.S.C. 1395x(s)(2)(K)) is amended by inserting ", in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332(a)(1)(A) of the Public Health Service Act, as a health manpower shortage area," after "1905(c))".

42 USC 1395x note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 1989.

SEC. 4077. PSYCHOLOGIST SERVICES IN CLINICS.

(a) COVERAGE OF PSYCHOLOGISTS' SERVICES FURNISHED AT RURAL HEALTH CLINICS.—

(1) Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking "physician assistant or by a nurse practitioner" and inserting "physician assistant or a

[39] Copy read "(d)".

nurse practitioner (as defined in paragraph (3)), or by a clinical psychologist (as defined by the Secretary),".

(2) The amendment made by paragraph (1) shall be effective with respect to services furnished on or after the date of enactment of this Act. 42 USC 1395x note.

(b) DIRECT PAYMENT FOR PSYCHOLOGISTS' SERVICES FURNISHED AT A COMMUNITY MENTAL HEALTH CENTER.—

(1) Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended, is amended—

(A) by striking "and" at the end of subparagraph (K);

(B) by adding "and" at the end of subparagraph (L); and

(C) by adding at the end thereof the following new subparagraph:

"(M) qualified psychologist services;".

(2) Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) by striking "and" at the end of clause (ii);

(B) by striking the semicolon in clause (iii) and inserting a comma; and

(C) by adding at the end thereof the following new clause:

"(iv) qualified psychologist services; and".

(3) Section 1833(a)(1) of such Act (42 U.S.C. 1395k(a)(1)) is amended— 42 USC 1395*l*.

(A) by striking "and" at the end of subparagraph (G); 101 STAT. 1330-121

(B) by striking "services; and" in subparagraph (H) and inserting "services,";

(C) by adding "and" at the end of subparagraph (I); and

(D) by adding at the end thereof the following new subparagraph: "(J) with respect to qualified psychologist services under section 1861(s)(2)(M), the amounts paid shall be the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph;".

(4) The subsection added by section 4073(b)(3) of this subpart is amended by inserting "and in the case of qualified psychologists services for which payment may be made under this part only pursuant to section 1861(s)(2)(M)" after "1861(s)(2)(L)". 42 USC 1395*l*.

(5) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"Qualified Psychologist Services

"(gg) The term 'qualified psychologist services' means such services and such services and supplies furnished as an incident to his service furnished by a clinical psychologist (as defined by the Secretary) at a community mental health center (as such term is used in the Public Health Service Act) which the psychologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician or as an incident to a physician's service.".[40]

(6)[41] The amendments made by this subsection shall be effective with respect to services performed on or after July 1, 1988. Effective date. 42 USC 1395k note.

SEC. 4078. PROVISION OF OFFSITE COMPREHENSIVE OUTPATIENT REHABILITATION SERVICES.

Section 1861(cc)(1) of the Social Security Act (42 U.S.C. 1395x(cc)(1)) is amended by adding at the end thereof the following: "In the case of physical therapy, occupational therapy, and speech pathology services, there shall be no requirement that the item or service be furnished at any single fixed location if the item or

[40] Copy read "service.".
[41] Copy read "(5)".

service is furnished pursuant to such plan and payments are not otherwise made for the item or service under this title.".

42 USC 1395mm note.

SEC. 4079. DEMONSTRATION PROJECTS TO PROVIDE PAYMENT ON A PREPAID, CAPITATED BASIS FOR COMMUNITY NURSING AND AMBULATORY CARE FURNISHED TO MEDICARE BENEFICIARIES.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into an agreement with not less than four eligible organizations submitting applications under this section to conduct demonstration projects to provide payment on a prepaid, capitated basis for community nursing and ambulatory care furnished to any individual entitled to benefits under part A and enrolled under part B of title XVIII of the Social Security Act (other than an individual medically determined
101 STAT. 1330-122 to have end-stage renal disease) who resides in the geographic area served by the organization and enrolls with such organization (in accordance with subsection (c)(2)).

(b) DEFINITIONS OF COMMUNITY NURSING AND AMBULATORY CARE AND ELIGIBLE ORGANIZATION.—As used in this section:

(1) The term "community nursing and ambulatory care" means the following services:

(A) Part-time or intermittent nursing care furnished by or under the supervision of registered professional nurses.

(B) Physical, occupational, or speech therapy.

(C) Social and related services supportive of a plan of ambulatory care.

(D) Part-time or intermittent services of a home health aide.

(E) Medical supplies (other than drugs and biologicals) and durable medical equipment while under a plan of care.

(F) Medical and other health services described in paragraphs (2)(H)(ii) and (5) through (9) of section 1861(s) of the Social Security Act.

(G) Rural health clinic services described in section 1861(aa)(1)(C) of such Act.

(H) Certain other related services listed in section 1915(c)(4)(B) of such Act to the extent the Secretary finds such services are appropriate to prevent the need for institutionalization of a patient.

(2) The term "eligible organization" means a public or private entity, organized under the laws of any State, which meets the following requirements:

(A) The entity (or a division or part of such entity) is primarily engaged in the direct provision of community nursing and ambulatory care.

(B) The entity provides directly, or through arrangements with other qualified personnel, the services described in paragraph (1).

(C) The entity provides that all nursing care (including services of home health aids) is furnished by or under the supervision of a registered nurse.

(D) The entity provides that all services are furnished by qualified staff and are coordinated by a registered professional nurse.

(E) The entity has policies governing the furnishing of community nursing and ambulatory care that are developed by registered professional nurses in cooperation with (as appropriate) other professionals.

(F) The entity maintains clinical records on all patients.

(G) The entity has protocols and procedures to assure, when appropriate, timely referral to or consultation with other health care providers or professionals.

(H) The entity complies with applicable State and local laws governing the provision of community nursing and ambulatory care to patients.

(I) The requirements of subparagraphs (B), (D), and (E) of section 1876(b)(2) of the Social Security Act.

(c) AGREEMENTS WITH ELIGIBLE ORGANIZATIONS TO [42] CONDUCT DEMONSTRATION PROJECTS.— 101 STAT. 1330-123

(1) The Secretary may not enter into an agreement with an eligible organization to conduct a demonstration project under this section unless the organization meets the requirements of this subsection and subsection (d) with respect to members enrolled with the organization under this section.

(2) The organization shall have an open enrollment period for the enrollment of individuals under this section. The duration of such period of enrollment and any other requirement pertaining to enrollment or termination of enrollment shall be specified in the agreement with the organization.

(3) The organization must provide to members enrolled with the organization under this section, through providers and other persons that meet the applicable requirements of titles XVIII and XIX of the Social Security Act, community nursing and ambulatory care (as defined in subsection (b)(1)) which is generally available to individuals residing in the geographic area served by the organization, except that the organization may provide such members with such additional health care services as the members may elect, at their option, to have covered.

(4) The organization must make community nursing and ambulatory care (and such other health care services as such individuals have contracted for) available and accessible to each individual enrolled with the organization under this section, within the area served by the organization, with reasonable promptness and in a manner which assures continuity.

(5) Section 1876(c)(5) of the Social Security Act shall apply to organizations under this section in the same manner as it applies to organizations under section 1876 of such Act.

(6) The organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals under the demonstration project conducted under this section, which program (A) stresses health outcomes and (B) provides review by health care professionals of the process followed in the provision of such health care services.

(7) Under a demonstration project under this section—

(A) the Secretary could require the organization to provide financial or other assurances (including financial risk-sharing) that minimize the inappropriate substitution of other services under title XVIII of such Act for community nursing services; and

(B) if the Secretary determines that the organization has failed to perform in accordance with the requirements of the project (including meeting financial responsibility requirements under the project, any pattern of disproportionate or inappropriate institutionalization) the Secretary shall, after notice, terminate the project.

(d) DETERMINATION OF PER CAPITA PAYMENT RATES.—

(1) The Secretary shall determine for each 12-month period in which a demonstration project is conducted under this section, and shall announce (in a manner intended to provide notice to interested parties) not later than three months before the beginning of such period, with respect to each eligible organization conducting a demonstration project under this section, a per capita rate of payment for each class of individuals who are enrolled with such organization who are entitled to benefits 101 STAT. 1330-124 under part A and enrolled under part B of title XVIII of the Social Security Act.

[42] Copy read "WITH ELIGIBLE ORGANIZATIONS TO".

(2)(A) Except as provided in paragraph (3), the per capita rate of payment under paragraph (1) shall be determined in accordance with this paragraph.

(B) The Secretary shall define appropriate classes of members, based on age, disability status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

(C) The per capita rate of payment under paragraph (1) for each such class shall be equal to 95 percent of the adjusted average per capita cost (as defined in subparagraph (D)) for that class.

(D) For purposes of subparagraph (C), the term 'adjusted average per capita cost' means the average per capita amount that the Secretary estimates in advance (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in a geographic area served by an eligible organization or in a similar area, with appropriate adjustments to assure actuarial equivalence) would be payable in any contract year for those services covered under parts A and B of title XVIII of the Social Security Act and types of expenses otherwise reimbursable under such parts A and B which are described in subparagraphs (A) through (G) of subsection (b)(1) (including administrative costs incurred by organizations described in sections 1816 and 1842 of such Act), if the services were to be furnished by other than an eligible organization.

(3) The Secretary shall, in consultation with providers, health policy experts, and consumer groups develop capitation-based reimbursement rates for such classes of individuals entitled to benefits under part A and enrolled under part B of the Social Security Act as the Secretary shall determine. Such rates shall be applied in determining per capita rates of payment under paragraph (1) with respect to at least one eligible organization conducting a demonstration project under this section.

(4)(A) In the case of an eligible organization conducting a demonstration project under this section, the Secretary shall make monthly payments in advance and in accordance with the rate determined under paragraph (2) or (3), except as provided in subsection (e)(3)(B), to the organization for each individual enrolled with the organization.

(B) The amount of payment under paragraph (2) or (3) may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

(5) The payment to an eligible organization under this section for individuals enrolled under this section with the organization and entitled to benefits under part A and enrolled under part B of the Social Security Act shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established under such Act in such proportions from each such trust fund as the Secretary deems to be fair and equitable taking into consideration benefits attributable to such parts A and B, respectively.

101 STAT. 1330-125

(6) During any period in which an individual is enrolled with an eligible organization conducting a demonstration project under this section, only the eligible organization (and no other individual or person) shall be entitled to receive payments from the Secretary under this title for community nursing and ambulatory care (as defined in subsection (b)(1)) furnished to the individual.

(e) RESTRICTION ON PREMIUMS, DEDUCTIBLES, COPAYMENTS, AND COINSURANCE.—

(1) In no case may the portion of an eligible organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to community nursing and ambulatory care) to individuals who are enrolled under this section with the organization, exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this section with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this section with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B of the Social Security Act, if they were not members of an eligible organization.

(2) If the eligible organization provides to its members enrolled under this section services in addition to community nursing and ambulatory care, election of coverage for such additional services shall be optional for such members and such organization shall furnish such members with information on the portion of its premium rate or other charges applicable to such additional services. In no case may the sum of—

(A) the portion of such organization's premium rate charged, with respect to such additional services, to members enrolled under this section, and

(B) the actuarial value of its deductibles, coinsurance, and copayments charged, with respect to such services to such members

exceed the adjusted community rate for such services (as defined in section 1876(e)(3) of the Social Security Act).

(3)(A) Subject to subparagraphs (B) and (C), each agreement to conduct a demonstration project under this section shall provide that if—

(i) the adjusted community rate, referred to in paragraph (2), for community nursing and ambulatory care covered under parts A and B of title XVIII of the Social Security Act (as reduced for the actuarial value of the coinsurance and deductibles under those parts) for members enrolled under this section with the organization,

is less than

(ii) the average of the per capita rates of payment to be made under subsection (d)(1) at the beginning of the 12-month period (as determined on such basis as the Secretary determines appropriate) described in such subsection for members enrolled under this section with the organization, 101 STAT. 1330-126

the eligible organization shall provide to such members the additional benefits described in section 1876(g)(3) of the Social Security Act which are selected by the eligible organization and which the Secretary finds are at least equal in value to the difference between that average per capita payment and the adjusted community rate (as so reduced).

(B) Subparagraph (A) shall not apply with respect to any organization which elects to receive a lesser payment to the extent that there is no longer a difference between the average per capita payment and adjusted community rate (as so reduced).

(C) An organization conducting a demonstration project under this section may provide (with the approval of the Secretary) that a part of the value of such additional benefits under subparagraph (A) be withheld and reserved by the Secretary as provided in section 1876(g)(5) of the Social Security Act.

(4) The provisions of paragraphs (3), (5), and (6) of section 1876(g) of the Social Security Act shall apply in the same Contracts.

manner to agreements under this section as they apply to risk-sharing contracts under section 1876 of such Act, and, for this purpose, any reference in such paragraphs to paragraph (2) is deemed a reference to paragraph (3) of this subsection.

(5) Section 1876(e)(4) of the Social Security Act shall apply to eligible organizations under this section in the same manner as it applies to eligible organizations under section 1876 of such Act.

(f) COMMENCEMENT AND DURATION OF PROJECTS.—Each demonstration project under this section shall begin not later than July 1, 1989, and shall be conducted for a period of three years.

(g) REPORT.—Not later than January 1, 1992, the Secretary shall submit to the Congress a report on the results of the demonstration projects conducted under this section.

SEC. 4080. PART B PREMIUM.

Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

(1) in subsection (e), by striking "1989" each place it appears and inserting in lieu thereof "1990";

(2) in subsection (f)(1), by striking "or 1987" and inserting in lieu thereof "1987, or 1988"; and

(3) in subsection (f)(2), by striking "or 1988" and inserting in lieu thereof "1988, or 1989".

Subpart D—Other Provisions

SEC. 4081. SUBMISSION OF CLAIMS TO SUPPLEMENTAL INSURANCE CARRIERS.

(a) IN GENERAL.—Section 1842(h)(3) of the Social Security Act (42 U.S.C. 1395u(h)(3)) is amended by inserting "(A)" after "(3)" and by adding at the end the following new subparagraph:

"(B) The Secretary shall establish a procedure whereby an individual enrolled under this part may assign, in an appropriate manner on the form claiming a benefit under this part for an item or service furnished by a participating physician or supplier, the individual's rights of payment under a medicare supplemental policy (described in section 1882(g)(1)) in which the individual is enrolled. In the case such an assignment is properly executed and a claims determination is made by a carrier with a contract under this section, the carrier shall transmit to the private entity issuing the medicare supplemental policy notice of such fact and including such information as the Secretary determines is generally provided to enable the entity to decide whether (and the amount of) any payment is due under the policy. The Secretary may enter into arrangements for the transmittal of such information to entities electronically. The Secretary shall impose user fees for the transmittal of information under this subparagraph, whether electronically or otherwise.".

101 STAT. 1330-127

(b) MEDIGAP POLICY STANDARDS.—Section 1882 of such Act (42 U.S.C. 1395ss) is amended—

(1) in subsection (b)(1)—

(A) by amending subparagraph (B) to read as follows:

"(B) includes requirements equal to or more stringent than the requirements described in paragraphs (2) and (3) of subsection (c);",

[43] (B) by adding "and" at the end of subparagraph (C), and

[43] (C) by inserting after subparagraph (C) the following new subparagraph:

"(D) provides the Secretary periodically (but at least annually) with a list containing the name and address of the issuer of each such policy and the name and number of each such policy (including an indication of policies that have been pre-

[43] Paragraphs (B) and (C) were indented wrong.

viously approved, newly approved, or withdrawn from approval since the previous list was provided),";

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting "; and", and

(C) by inserting after paragraph (2) the following new paragraph:

"(3)(A) accepts a notice under section 1842(h)(3)(B) as a claims form for benefits under such policy in lieu of any claims form otherwise required and agrees to make a payment determination on the basis of the information contained in such claims form;

"(B) where such a notice is received—

"(i) provides notice to such physician or supplier and the beneficiary of the payment determination, and

"(ii) provides any appropriate payment directly to the participating physician or supplier involved;

"(C) provides each enrollee at the time of enrollment a card listing the policy name and number and a single mailing address to which notices under section 1842(h)(3)(B) respecting the policy are to be sent;

"(D) agrees to pay any user fees established under section 1842(h)(3)(B) with respect to information transmitted to the issuer of the policy; and

"(E) provides to the Secretary at least annually, for transmittal to carriers, a single mailing address to which notices under section 1842(h)(3)(B) respecting the policy are to be sent.".

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply to contracts with carriers for claims for items and services furnished by participating physicians and suppliers on or after January 1, 1989.

Contracts.
42 USC 1395u note.

101 STAT. 1330–128

(2)(A) The amendments made by subsection (b) shall apply to medicare supplemental policies as of January 1, 1989 (or, if applicable, the date established under subparagraph (B)).

42 USC 1395ss note.

(B) In the case of a State which the Secretary of Health and Human Services identifies as—

(i) requiring State legislation (other than legislation appropriating funds) in order for medical supplemental policies to be changed to meet the requirements of section 1882(c)(3) of the Social Security Act, and

(ii) having a legislature which is not scheduled to meet in 1988 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1989, and in which legislation described in clause (i) may be considered.

SEC. 4082. REVISION OF PART B HEARINGS.

(a) CLARIFICATION OF OBRA AMENDMENT.—Section 1869(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ff(b)(3)(B)) is amended [43a] by striking "chapter 5" and inserting "section 553".

(b) EXPEDITED ADMINISTRATIVE HEARING WHERE ONLY ISSUES OF LAW.—Section 1869(b) of such Act (42 U.S.C. 1395ff(b)) is amended by adding at the end the following new paragraph:

"(5) In an administrative hearing pursuant to paragraph (1), where the moving party alleges that there are no material issues of fact in dispute, the administrative law judge shall make an expedited determination as to whether any such facts are in dispute and, if not, shall determine the case expeditiously.".

[43a] Copy read "is amended is amended".

(c) TIMELY CARRIER HEARINGS ON PART B APPEALS.—Section 1842(b)(5) of such Act (42 U.S.C. 1395u(b)(5)) is amended—

(1) by inserting "(A)" after "(5)", and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary shall establish standards for evaluating carriers' performance of reviews of initial carrier determinations and of fair hearings under paragraph (3)(C), under which a carrier is expected—

"(i) to complete such reviews, within 45 days after the date of a request by an individual enrolled under this part for such a review, in 95 percent of such requests, and

"(ii) to make a final determination, within 120 days after the date of receipt of a request by an individual enrolled under this part for a fair hearing under paragraph (3)(C), in 90 percent of such cases.".

42 USC 1395u note.

(d) GAO STUDY.—The Comptroller General shall conduct a study concerning the cost effectiveness of requiring hearings with a carrier under part B of title XVIII of the Social Security Act before having a hearing before an administrative law judge respecting carrier determinations under that part. The Comptroller General shall report to the Congress on the results of such study by not later than June 30, 1989.

Reports.

42 USC 1395ff note.

(e) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

101 STAT. 1330-129

(2) The amendment made by subsection (b) shall apply to requests for hearings filed after the end of the 60-day period beginning on the date of the enactment of this Act.

42 USC 1395u note.

(3) The amendments made by subsection (c) shall apply to evaluation of performance of carriers under contracts entered into or renewed on or after October 1, 1988.

SEC. 4083. PROVISIONS RELATING TO PHYSICIAN PAYMENT REVIEW COMMISSION.

(a) REVISION OF APPOINTMENT PROCESS FOR THE PHYSICIAN PAYMENT REVIEW COMMISSION.—

(1) IN GENERAL.—Section 1845(a) of the Social [43b] Security Act (42 U.S.C. 1395w-1(a)(3)) is amended—

(A) in paragraph (1), by striking "with expertise in the provision and financing of physicians' services" and inserting "with national recognition for their expertise in health economics, physician reimbursement, medical practice, and other related fields"; and

(B) in paragraph (3), by striking the last sentence.

42 USC 1395w-1 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to appointments made after the date of the enactment of this Act.

(b) TREATMENT OF EMPLOYEES FOR CERTAIN PURPOSES.—

(1) IN [44] GENERAL.—Section 1886(e)(6)(D) of the Social Security Act (42 U.S.C. 1395ww(e)(6)(D)) is amended by adding at the end the following: "For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.".

42 USC 1395ww note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(c) CHANGE IN DATE FOR ANNUAL REPORT OF PHYSICIAN PAYMENT REVIEW COMMISSION.—

(1) Section 1845(b)(1) of such Act (42 U.S.C. 1395w-1(b)(1)) is amended by striking "March 1" and inserting "March 31".

42 USC 1395w-1 note.

(2) The amendment made by paragraph (1) shall apply with respect to reports for years after 1987.

[43b] Copy read "of Social".

[44] Copy read "General.".

SEC. 4084. TECHNICAL AMENDMENTS RELATED TO CERTIFIED REGISTERED NURSE ANESTHETISTS.

(a) IN GENERAL.—Section 1833(l) of the Social Security Act (42 U.S.C. 1395l(l)), as added by section 9320(e) of the Omnibus Budget Reconciliation Act of 1986, is amended—

(1) in paragraph (2), by striking "1985" and inserting "1985 and such other data as the Secretary determines necessary"; and

(2) in paragraph (5)(A), by striking "or group practice" each place it appears and inserting "group practice, or ambulatory surgical center".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply as if included in the amendment made by section 9320(e)(2) of the Omnibus Budget Reconciliation Act of 1986. 42 USC 1395*l* note.

101 STAT. 1330-130

SEC. 4085. MISCELLANEOUS AND TECHNICAL PROVISIONS.

(a) PROMPT SUBMITTAL OF DATA BY SECRETARY.—Section 1845 of the Social Security Act (42 U.S.C. 1395w-1) is amended by adding at the end the following new subsection:

"(f)(1) Not later than October 1st of each year (beginning with 1988), the Secretary shall transmit to the Physician Payment Review Commission, to the Congressional Budget Office, and to the Congressional Research Service of the Library of Congress national data (known as the Part B Medicare Annual Data System) for the previous year respecting part B of this title.

"(2) In order to ensure that the data are available for transmittal under paragraph (1) on a timely basis, the Secretary shall require, in the standards and criteria established under section 1842(b)(2), that carriers submit data for a year under the system referred to in paragraph (1) not later than July 1st of the following year.

"(3) The Secretary, in consultation with the Physician Payment Review Commission, the Congressional Budget Office, and the Congressional Research Service of the Library of Congress, shall establish and annually revise standards for the data reporting system described in paragraph (1).

"(4) The Secretary shall also provide to the entities described in paragraph (1) additional data respecting the program under this part as may be reasonably requested by them on an agreed-upon schedule.

"(5) The Secretary shall develop, in consultation with the Physician Payment Review Commission, the Congressional Budget Office, and the Congressional Research Service of the Library of Congress, a system for providing to each of such entities on a quarterly basis summary data on aggregate expenditures under this part by type of service and by type of provider. Such data shall be provided not later than 90 days after the end of each quarter (for quarters beginning with the calendar quarter ending on March 31, 1989).".

(b) CLARIFICATION OF PENALTIES FOR UNASSIGNED LABORATORY SERVICES.—

(1) IN GENERAL.—Section 1833(h)(5) of the Social Security Act (42 U.S.C. 1395l(h)(5)) is amended by adding at the end the following new subparagraph:

"(D) If a person knowingly and willfully and on a repeated basis bills an individual enrolled under this part for charges for a clinical diagnostic laboratory test for which payment may only be made on an assignment-related basis under subparagraph (C), the Secretary may apply sanctions against the person in the same manner as the Secretary may apply sanctions against a physician in accordance with section 1842(j)(2).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to procedures performed on or after January 1, 1988. 42 USC 1395*l* note.

(c) EXTENSION OF MORATORIUM ON LABORATORY PAYMENT DEMONSTRATION.—Section 9204(a) of the Consolidated Omnibus Budget

Reconciliation Act of 1985, as amended by section 9339(e) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking "January 1, 1988" and inserting "January 1, 1989".

42 USC 1395ww note.

(d) PROMPT PAYMENT FOR COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES.—

(1) Section 1816(c)(2)(C) of the Social Security Act (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "or hospice program" and inserting "hospice program, comprehensive outpatient rehabilitation facility, or rehabilitation agency".

101 STAT. 1330-131

42 USC 1395h note.

(2)(A) The amendment made by paragraph (1) shall apply to claims received on or after the date of enactment of this Act.

(B) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816, and regulations, to such extent as may be necessary to implement the amendment made by paragraph (1).

42 USC 1395u note.

(e) CAPACITY TO [45] SET GEOGRAPHIC PAYMENT LIMITS.—The Secretary of Health and Human Services shall develop the capability to implement (for services furnished on or after January 1, 1989) geographic limits on charges and payments under part B of title XVIII of the Social Security Act for physicians' services based on statewide, regional, or national average (or percentile in a distribution) of prevailing charges or payment amounts (weighted by frequency of services). Any such limits shall take into account adjustments for geographic differences in cost of practice and cost of living.

(f) DELAY IN EFFECTIVE DATE FOR ESTABLISHING PHYSICIAN IDENTIFIER SYSTEM.—Section 9202(g) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking "July 1, 1987" and inserting "October 1, 1988".

42 USC 1395ww note.

(g) DATE FOR APPLYING CIVIL PENALITIES FOR IMPROPER USE OF ASSISTANTS IN PERFORMING CATARACT SURGERY.—

(1) Section 1842(k) of the Social Security Act (42 U.S.C. 1395u(k)) is amended in paragraphs (1) and (2) by striking "(j)(2)" each place it appears and inserting "(j)(2) in the case of surgery performed on or after March 1, 1987".

42 USC 1395u note.

(2) The amendment made by paragraph (1) shall be effective as if included in section 9307(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985.

42 USC 1395u note.

(h) UTILIZATION SCREENS FOR PHYSICIAN SERVICES PROVIDED TO PATIENTS IN REHABILITATION HOSPITALS.—

(1) The Secretary of Health and Human Services shall establish (in consultation with appropriate physician groups, including those representing rehabilitative medicine) a separate utilization screen for physician visits to patients in rehabilitation hospitals and rehabilitative units (and patients in long-term care hospitals receiving rehabilitation services) to be used by carriers under section 1842 of the Social Security Act in performing functions under subsection (a) of such section related to the utilization practices of physicians in such hospitals and units.

(2) Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services shall take appropriate steps to implement the utilization screen established under paragraph (1).

(i) TECHNICAL AMENDMENTS.—

(1) Section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) is amended—

(A) in paragraphs (1)(D)(i) and (2)(D)(i), by striking, "on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1)," and inserting "on an assignment-related basis";

[45] Copy read "TO".

(B) in paragraph (1), by striking "and" before "(G)"; and 101 STAT. 1330-132
(C) in subsection (b)(3)(A), by striking "on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1)" and inserting "on an assignment-related basis".

(2) Section 1833(h)(1)(C) of such Act (42 U.S.C. 1395l(h)(1)(C)) is amended by inserting before the period the following: ", and ending on December 31, 1989. For such tests furnished on or after January 1, 1990, the fee schedule shall be established on a nationwide basis".

(3) Section 1833(h)(5)(A) of such Act (42 U.S.C. 1395l(h)(5)(A)) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end the following new clause:

"(iii) in the case of a clinical diagnostic laboratory test provided under an arrangement (as defined in section 1861(w)(1)) made by a hospital, payment shall be made to the hospital.".

(4) Section 1835(a)(2)(C) of such Act (42 U.S.C. 1395n(a)(2)(C)) is amended by striking the second comma at the end of clause (i).

(5) Section 1842(b)(3)(C) of such Act (42 U.S.C. 1395u(b)(3)(C)) is amended by striking "not more than" and inserting "less than".

(6) Section 1842(h)(5) of such Act (42 U.S.C. 1395u(h)(5)) is amended by striking "the" before "participation".

(7) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986, section 1842(j)(1) of the Social Security Act (42 U.S.C. 1395u(j)(1)) is amended—

(A) in subparagraph (C)(i), by inserting "maximum allowable" after "If the physician's",

(B) in subparagraph (C)(v), by striking "1987" and inserting [46] "1986", and

(C) by adding at the end of subparagraph (C) the following new clause:

"(vii) In the case of a nonparticipating physician who was a participating physician during a previous period, for the purpose of computing the physician's maximum allowable actual charge during the physician's period of nonparticipation, the physician shall be deemed to have had a maximum allowable actual charge during the period of participation, and such deemed maximum allowable actual charge shall be determined accordingly to clauses (i) through (vi).".

(8) Paragraph (4) of section 1845(e) of the Social Security Act (42 U.S.C. 1395w-1(e)) is amended by moving the alignment of each of its provisions (including any clauses therein) 2 ems to the left.

(9) Section 1861(b)(4) of such Act (42 U.S.C. 1395x(b)(4)) is amended by striking the comma before "anesthesia" and inserting "and" and by striking "certified" the second place it appears.

(10) The heading of subsection (g) of section 1861 of such Act (42 U.S.C. 1395x) is amended to read as follows:

"Outpatient Occupational Therapy Services".

(11) Section 1861(s) of such Act (42 U.S.C. 1395x(s)), as amended by section 9367(a) of this Act, is amended by striking "which—" before paragraph (15) and all that follows through 101 STAT. 1330-133
the end of paragraph (16) and inserting the following: "which would not be included under subsection (b) if it were furnished to an inpatient of a hospital.".

(12) Section 1861(v)(5)(A) of such Act (42 U.S.C. 1395x(v)(5)(A)) is amended by striking "section 1861(p)" and "section 1861(g)" and inserting "subsection (p)" and "subsection (g)", respectively.

(13) The heading of subsection (bb) of section 1861 of such Act (42 U.S.C. 1395x) is amended to read as follows:

[46] Copy read "insert".

"Services of a Certified Registered Nurse Anesthetist".

(14) The heading of subsection (ee) of section 1861 of such Act (42 U.S.C. 1395x) is amended to read as follows:

"Discharge Planning Process".

(15) Section 1862(a)(1)(A) of such Act (42 U.S.C. 1395y(a)(1)(A)) is amended by striking "or (D)" and inserting "(D), or (E)".

(16) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by striking "an patient" and inserting "a patient".

(17) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986, section 1866(g) of the Social Security Act (42 U.S.C. 1395cc(g)) is amended by striking "for a hospital outpatient service" and all that follows through "subsection (a)(1)(H)" and inserting "inconsistent with an arrangement under subsection (a)(1)(H) or in violation of the requirement for such an arrangement".

(18) Section 1869(a) of the Social Security Act (42 U.S.C. 1395ff(a)) is amended by inserting "or a claim for benefits with respect to home health services under part B" before "shall".

(19) Section 1869(b)(2) of such Act (42 U.S.C. 1395ff(b)(2)) is amended by inserting "and (1)(D)" after "paragraph (1)(C)" each place it appears.

(20) Section 1875(c)(3)(B) of such Act (42 U.S.C. 1395ll(c)(3)(B)) is amended by striking "years 1987" and inserting "year 1987".

(21) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986—

42 USC 1395ll note.

(A) section 9313(d)(3) of such Act is amended by striking "2 years after the date of the enactment of this Act" and inserting "January 1, 1990";

42 USC 1395u note.

(B) section 9332(a)(3) of such Act is amended by inserting before the period at the end the following: "or in increasing the proportion of total payments for physicians' services which are payments for such services rendered by participating physicians";

42 USC 1395rr note.

(C) section 9335(j)(2) of such Act is amended by inserting before the period at the end the following: "except that, until network administrative organizations are established under section 1881(c)(1)(A) of the Social Security Act (as amended by subsection (d)(1) of this section), the distribution of payments described in the last sentence of section 1881(b)(7) of such Act shall be made based on the distribution of payments under section 1881 of such Act to network administrative organizations for fiscal year 1986"; and

42 USC 1395l.

(D) section 9343 of such Act is amended—

(i) amending subparagraph (A) of subsection (e)(2) to read as follows:

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"(2)(A) Section 1833 (42 U.S.C. 1395l) is amended—

"(i) in subsection (a)(1)(F), by striking '(i)(3)' and inserting '(i)(4)', and

"(ii) in subsection (b)(3), by striking 'or under subsection (i)(2) or (i)(4)'.";

42 USC 1395l note.

(ii) in subsection (h)(2), by striking "(d)" and inserting "(c)" and by adding at the end the following: "The amendments made by subsection (c) shall apply to services furnished after June 30, 1987."; and

42 USC 1395l note.

(iii) in subsection (h)(4), by striking "(c)" and inserting "(d)".

PART 4—PEER REVIEW ORGANIZATIONS

SEC. 4091. CONTRACT PROVISIONS.

(a) EXTENSIONS OF PEER REVIEW CONTRACT PERIOD.—

(1) ONE-TIME EXTENSIONS TO PERMIT STAGGERING OF EXPIRATION DATES.— 42 USC 1320c-2 note.

(A) IN GENERAL.—In order to permit the Secretary of Health and Human Services an adequate time to complete contract renewal negotiations with utilization and quality control peer review organizations under part B of title XI of the Social Security Act and to provide for a staggered period of contract expiration dates, notwithstanding section 1153(c) of such Act, the Secretary may provide for extensions of existing contracts, but the total of such extensions may not exceed 24 months for any contract.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to renewals occurring on or after the date of the enactment of this Act.

(2) 3-YEAR CONTRACT PERIOD.—

(A) Section 1153(c)(3) of such Act (42 U.S.C. 1320c-2(c)(3)) is amended by striking "two" and "biennial" and inserting "three" and "triennial", respectively.

(B) The amendment made by subparagraph (A) shall apply with respect to contracts entered into or renewed on or after the date of the enactment of this Act. 42 USC 1320c-2 note.

(b) CONTRACT REQUIREMENTS.—

(1) Section 1153 of the Social Security Act (42 U.S.C. 1320c-2) is amended by adding at the end the following new subsection:

"(h)(1) The Secretary shall publish in the Federal Register any new policy or procedure adopted by the Secretary that affects substantially the performance of contract obligations under this section not less than 30 days before the date on which such policy or procedure is to take effect. This paragraph shall not apply to the extent it is inconsistent with a statutory deadline. Federal Register, publication.

"(2) The Secretary shall publish in the Federal Register the general criteria and standards used for evaluating the efficient and effective performance of contract obligations under this section and shall provide opportunity for public comment with respect to such criteria and standards. Federal Register, publication.

"(3) The Secretary shall regularly furnish each peer review organization with a contract under this section with a report that documents the performance of the organization in relation to the performance of other such organizations.".

101 STAT. 1330-135

(2) Section 1153(e) of such Act (42 U.S.C. 1320c-2(e)) is amended—

(A) by inserting "(1)" after "(e)";

(B) by striking "Contracting" and inserting "Except as provided in paragraph (2), contracting"; and

(C) by adding at the end the following new paragraph:

"(2) If a peer review organization with a contract under this section is required to carry out a review function in addition to any function required to be carried out at the time the Secretary entered into or renewed the contract with the organization, the Secretary shall, before requiring such organization to carry out such additional function, negotiate the necessary contractual modifications, including modifications that provide for an appropriate adjustment (in light of the cost of such additional function) to the amount of reimbursement made to the organization.".

(3) The amendments made by paragraphs (1) and (2) shall become effective on the date of enactment of this Act. 42 USC 1320c-2 note.

SEC. 4092. PREFERENCE IN CONTRACTING WITH IN-STATE ORGANIZATIONS.

(a) IN GENERAL.—Section 1153 of the Social Security Act (42 U.S.C. 1320c–2), as amended by section 4091(b)(1) of this part, is further amended by adding at the end the following new subsection:

"(i)(1) Notwithstanding any other provision of this section, the Secretary shall not renew a contract with any organization that is not an in-State organization (as defined in paragraph (3)) unless the Secretary has first complied with the requirements of paragraph (2).

Federal Register, publication.

"(2)(A) Not later than six months before the date on which a contract period ends with respect to an organization that is not an in-State organization, the Secretary shall publish in the Federal Register—

"(i) the date on which such period ends; and

"(ii) the period of time in which an in-State organization may submit a proposal for the contract ending on such date.

"(B) If one or more qualified in-State organizations submits a proposal within the period of time specified under subparagraph (A)(ii), the Secretary shall not automatically renew the current contract on a noncompetitive basis, but shall provide for competition for the contract in the same manner as a new contract under subsection (b).

"(3) For purposes of this subsection, an in-State organization is an organization that has its primary place of business in the State in which review will be conducted (or, which is owned by a parent corporation the headquarters of which is located in such State).".

42 USC 1320c–2 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to contracts scheduled to be renewed on or after the first day of the eighth month to begin after the date of enactment of this Act.

SEC. 4093. REQUIRING REASONABLE NOTICE AND OPPORTUNITY FOR DISCUSSION PRIOR TO DENIAL OF CLAIM.

(a) IN GENERAL.—Section 1154(a)(3) of the Social Security Act (42 U.S.C. 1320c–3(a)(3)) is amended to read as follows:

"(3)(A) Subject to subparagraph (B), whenever the organization makes a determination that any health care services or items furnished or to be furnished to a patient by any practitioner or provider are disapproved, the organization shall promptly notify such patient and the agency or organization responsible for the payment of claims under title XVIII of this Act of such determination.

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"(B) The notification under subparagraph (A) shall not occur until 20 days after the date that the organization has—

"(i) made a preliminary notification to such practitioner or provider of such proposed determination, and

"(ii) provided such practitioner or provider an opportunity for discussion and review of the proposed determination.

The discussion and review conducted under subparagraph (B)(ii) shall not affect the rights of a practitioner or provider to a formal reconsideration of a determination under this part (as provided under section 1155).".

42 USC 1320c–3 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to determinations made on or after April 1, 1988.

SEC. 4094. PEER REVIEW NORMS AND EDUCATION.

(a) STANDARDS APPLIED BY PROs.—Section 1154(a)(6) of the Social Security Act (42 U.S.C. 1320c–3(a)(6)) is amended by adding after and below subparagraph (B) thereof the following:

"As a component of the norms described in clause (i) or (ii), the organization shall take into account the special problems associated with delivering care in remote rural areas, the availability of service alternatives to inpatient hospitalization, and other appropriate factors (such as the distance from a patient's resi-

dence to the site of care, family support, availability of proximate alternative sites of care, and the patient's ability to carry out necessary or prescribed self-care regimens) that could adversely affect the safety or effectiveness of treatment provided on an outpatient basis.".

(b) ON-SITE REVIEW.—Section 1154(a) of such Act (42 U.S.C. 1320c-3(a)) is amended by adding at the end the following new paragraph:

"(15) During each year of the contract entered into under section 1153(b), the organization shall perform significant on-site review activities, including on-site review at at least 20 percent of the rural hospitals in the organization's area.". Contracts.

(c) REPORTS TO PROVIDERS AND EDUCATIONAL ACTIVITIES.—

(1)(A) Section 1154(a)(6) of such Act[47] (42 U.S.C. 1320c-3(a)(6)) is amended—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(ii) by inserting "(A)" after "(6)", and

(iii) by adding at the end the following:

"(B) The organization shall—

"(i) offer to provide, several times each year, for a physician representing the organization to meet (at a hospital or at a regional meeting) with medical and administrative staff of each hospital (the services of which are reviewed by the organization) respecting the organization's review of the hospital's services for which payment may be made under title XVIII, and

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"(ii) publish (not less often than annually) and distribute to providers and practitioners whose services are subject to review a report that describes the organization's findings with respect to the types of cases in which the organization has frequently determined that (I) inappropriate or unnecessary care has been provided, (II) services were rendered in an inappropriate setting, or (III) services did not meet professionally recognized standards of health care.".

(B) The amendments made by subparagraph (A) shall apply to contracts under part B of title XI of the Social Security Act entered into or renewed more than 6 months after the date of the enactment of this Act. Contracts. 42 USC 1320c-3 note.

(2)(A) Section 1154(a)(4)(B) of the Social Security Act (42 U.S.C. 1320c-3(a)(4)(B)) is amended—

(i) by inserting before the period at the end of the first sentence the following: "and whether individuals enrolled with an eligible organization have adequate access to health care services provided by or through such organization (as determined, in part, by a survey of individuals enrolled with the organization who have not yet used the organization to receive such services). The contract of each organization shall also provide that with respect to health care provided by a health maintenance organization or competitive medical plan under section 1876, the organization shall maintain a beneficiary outreach program designed to apprise individuals receiving care under such section of the role of the peer review system, of the rights of the individual under such system, and of the method and purposes for contacting the organization"; and

(ii) by striking "previous sentence" and inserting "previous two sentences".

(B) Section 1154(a)(7)(A) of such Act (42 U.S.C. 1320c-3(a)(7)(A)) is amended—

(i) by inserting "(i)" after "(A)",

(ii) by striking the semicolon and inserting "; and", and

(iii) by adding at the end thereof the following new clause:

[47] Copy read "1154(a)(6) such Act".

"(ii) in the case of psychiatric and physical rehabilitation services, make arrangements to ensure that (to the extent possible) initial review of such services be made by a physician who is trained in psychiatry or physical rehabilitation (as appropriate).".

Contracts. 42 USC 1320c-3 note.

(C) The amendments made by this paragraph shall apply with respect to contracts entered into or renewed on or after the date of enactment of this Act.

(d) PEER REVIEW EMPHASIS ON EDUCATIONAL ACTIVITIES.—

(1) Section 1153(c) of such Act (42 U.S.C. 1320c-2(c)) is amended by adding after and below paragraph (8) the following: "In evaluating the performance of utilization and quality control peer review organizations under contracts under this part, the Secretary shall place emphasis on the performance of such organizations in educating providers and practitioners (particularly those in rural areas) concerning the review process and criteria being applied by the organization.".

Contracts. 42 USC 1320c-2 note.

(2) The amendment made by paragraph (1) shall apply to contracts under part B of title XI of the Social Security Act as of January 1, 1988.

Contracts. 42 USC 1320c-5 note.

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(e) TELECOMMUNICATIONS DEMONSTRATION PROJECTS.—The Secretary of Health and Human Services shall enter into agreements with entities submitting applications under this subsection (in such form as the Secretary may provide) to establish demonstration projects to examine the feasability of requiring instruction and oversight of rural physicians, in lieu of imposing sanctions, through use of video communication between rural hospitals and teaching hospitals under this title. Under such demonstration projects, the Secretary may provide for payments to physicians consulted via video communication systems. No funds may be expended under the demonstration projects for the acquisition of capital items including computer hardware.

SEC. 4095. PREEXCLUSION HEARINGS.

(a) IN GENERAL.—Section 1156(b) of the Social Security Act (42 U.S.C. 1320c-5(b)) is amended by adding at the end the following new paragraph:

"(5) Before the Secretary may effect an exclusion under paragraph (2) in the case of a provider or practitioner located in a rural health manpower shortage area (HMSA) or in a county with a population of less than 70,000, the provider or practitioner adversely affected by the determination is entitled to a hearing before an administrative law judge (described in section 205(b)) respecting whether the provider or practitioner should be able to continue furnishing services to individuals entitled to benefits under this Act, pending completion of the administrative review procedure under paragraph (4). If the judge does not determine, by a preponderance of the evidence, that the provider or practitioner will pose a serious risk to such individuals if permitted to continue furnishing such services, the Secretary shall not effect the exclusion under paragraph (2) until the provider or practitioner has been provided reasonable notice and opportunity for an administrative hearing thereon under paragraph (4).".

42 USC 1320c-5 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations made by the Secretary of Health and Human Services under section 1156(b) of the Social Security Act on or after the date of the enactment of this Act.

42 USC 1320c-5 note.

(c) TRANSITION FOR CURRENT CASES.—In the case of a practitioner or person—

(1) for whom a notice of determination under section 1156(b) of the Social Security Act has been provided within 365 days before the date of the enactment of this Act,

(2) who has not exhausted the administrative remedies available under section 1156(b)(4) of such Act for review of the determination, and

(3) who requests, within 90 days after the date of the enactment of this Act, a hearing established under this subsection, the Secretary of Health and Human Services shall provide for a hearing described in section 1156(b)(5) of the Social Security Act (as amended by subsection (a) of this section).

(d) REDETERMINATIONS IN CERTAIN CASES.—If, in hearing under subsection (c), the judge does not determine, by a preponderance of the evidence, that the provider or practitioner will pose a serious risk to individuals entitled to benefits under title XVIII of the Social Security Act if permitted to continue or resume furnishing such services, the Secretary shall not effect the exclusion (or shall suspend the exclusion, if previously effected) under paragraph (2) of section 1156(b) of such Act until the provider or practitioner has been provided an administrative hearing thereon under paragraph (4) of such section, notwithstanding any failure by the provider or practitioner to request the hearing on a timely basis.

42 USC 1320c-5 note.

(e) REPORT ON IMPROVEMENTS IN PROCEDURES FOR IMPOSING SANCTIONS.—Not later than one year after the date of enactment of this Act, the Secretary of Health and Human Services shall report to Congress on the improved procedures for imposing sanctions against a practitioner or person under section 1156 of the Social Security Act established through agreement by the Health Care Financing Administration, the American Association of Retired Persons, the American Medical Association, and the Office of the Inspector General in the Department of Health and Human Services. The report shall set forth such improved procedures, describe the response of physicians and providers to the procedures, assess whether the procedures effect an appropriate balance between procedural fairness and the need for ensuring quality medical care, comment on the alternative provider-patient notification procedure contained in the agreement, and recommend whether such procedures should apply to institutional providers of health care services.

SEC. 4096. LIMITATION OF BENEFICIARY LIABILITY FOR SERVICES DISALLOWED BY PEER REVIEW ORGANIZATIONS.

(a) PART B SERVICES.—

(1) Section 1842 of the Social Security Act (42 U.S.C 1395u) is amended—

(A) in subsection (b)(3)(ii), by inserting "(and to refund amounts already collected)" after "agrees not to charge", and by striking "and (II)" and inserting ", (II) the physician or other person furnishing such service agrees not to charge (and to refund amounts already collected) for services for which payment under this title is denied under section 1154(a)(2) by reason of a determination under section 1154(a)(1)(B), and (III)";

(B) in subsection (l)(1)(A)(iii), by inserting "(I)" after "(iii)" and by inserting before the comma the following: "or (II) payment under this title for such services is denied under section 1154(a)(2) by reason of a determination under section 1154(a)(1)(B)"; and

(C) in subsection (l)(1)(C), by inserting "in the case described in subparagraph (A)(iii)(I)" after "to an individual".

(2) Section 1870(f) of such Act (42 U.S.C. 1395gg(f)) is amended by striking "that the reasonable charge is the full charge for the services" each place it appears and inserting "to the terms specified in subclauses (I) and (II) of section 1842(b)(3)(B)(ii) with respect to the services".

(b) INDEMNIFICATION.—Section 1879(b) of such Act (42 U.S.C. 1395pp(b)) is amended—

(1) in the first sentence, by striking ", subject to the deductible and coinsurance provisions of this title,", and

(2) by adding at the end the following: "No item or service for which an individual is indemnified under this subsection shall be taken into account in applying any limitation on the amount

of items and services for which payment may be made to or on behalf of the individual under this title.".

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(c) PATIENT LIABILITY FOR HOSPITAL CHARGES DURING APPEAL OF DISCHARGE NOTICE.—

(1) Section 1154(e)(2) of such Act (42 U.S.C. 1320c-3(e)(2)) is amended by adding at the end thereof the following: "If the hospital requests such a review, it shall also notify the patient that the review has been requested.".

(2) Sections 1154(e)(3)(A)(i) (42 U.S.C. 1320c-3(e)(3)(A)(i)) and 1154(e)(3)(B) (42 U.S.C. 1320c-3(e)(3)(B)) of such Act are each amended by inserting "or (2)" after "paragraph (1)".

42 USC 1320c-3 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1988.

SEC. 4097. SEPARATE FUNDING LEVELS.

(a) AGGREGATE FUNDING.—Section 1866(a)(1)(F)(i)(III) of the Social Security Act (42 U.S.C. 1395cc(a)(1)(F)(i)(III)) is amended—

(1) by striking "1986" and inserting "1988"; and

(2) inserting "and for any direct or administrative costs incurred as a result of review functions added with respect to a subsequent fiscal year" after "inflation".

(b) PAYMENT.—Section 1866(a)(4)(C)(ii) of such Act (42 U.S.C. 1395cc(a)(4)(C)(ii)) is amended to read as follows:

"(ii) shall not be less in the aggregate for a fiscal year—

"(I) in the case of hospitals, than the amount specified in paragraph (1)(F)(i)(III), and

"(II) in the case of facilities and agencies, than the amounts the Secretary determines to be sufficient to cover the costs of such organizations' conducting the activities described in subparagraph (A) with respect to such facilities or agencies under part B of title XI.".

42 USC 1395cc note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 1988.

Subtitle B—Medicaid

PART 1—ELIGIBILITY AND BENEFITS

SEC. 4101. MEDICAID BENEFITS FOR POOR CHILDREN AND PREGNANT WOMEN.

(a) MEDICAID OPTIONAL COVERAGE FOR ADDITIONAL LOW-INCOME PREGNANT WOMEN AND CHILDREN.—

(1) Section 1902(l) of the Social Security Act (42 U.S.C. 1396a(l)) is amended—

(A) in paragraph (2)—

(i) by striking "(2) For purposes of paragraph (1)" and inserting "(2)(A) For purposes of paragraph (1) with respect to individuals described in subparagraph (A) or (B) of that paragraph",

(ii) by striking "100 percent" and inserting "185 percent", and

(iii) by adding at the end the following new subparagraph:

"(B) If a State elects, under subsection (a)(10)(A)(ii)(IX), to cover individuals not described in subparagraph (A) or (B) of paragraph (1), for purposes of that paragraph and with respect to individuals not described in such subparagraphs the State shall establish an

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income level which is a percentage (not more than 100 percent, or, if less, the percentage established under subparagraph (A)) of the income official poverty line described in subparagraph (A).";

(B) in paragraph (3)(D), by inserting "appropriate" after "applied is the".

(2) Section 1902(e)(4) of such Act (42 U.S.C. 1396a(e)(4)) is amended by adding at the end the following new sentence: "During the period in which a child is deemed under the preceding sentence to be eligible for medical assistance, the medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).".

(3) The amendments made by this subsection shall apply to medical assistance furnished on or after July 1, 1988. Effective date. 42 USC 1396a note.

(b) ALLOWING ACCELERATED COVERAGE OF CHILDREN UP[48] TO AGE 5.—

(1) Section 1902(l)(1) of such Act (42 U.S.C. 1396a(l)(1)) is amended—

(A) by inserting "and" at the end of subparagraph (B), and

(B) by striking subparagraphs (C) through (F) and inserting the following:

"(C) children born after September 30, 1983, and who have attained one year of age but have not attained 2, 3, 4, or 5 years of age (as selected by the State),".

(2)(A) Section 1902(l) of such Act is further amended—

(i) in paragraph (3)(C), by striking ", (C), (D), (E), or (F)" and inserting "or (C)", and

(ii) in paragraph (4)(B)(ii), by striking ", (D), (E), or (F)".

(B) Section 1902(e)(7) of such Act (42 U.S.C. 1396a(e)(7)) is amended by striking ", (C), (D), (E), or (F)" and inserting "or (C)".

(C) Section 9401(f)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "(A)" after "(2)" and by striking subparagraphs (B) through (D). 42 USC 1396a note.

(3) The amendments made by this subsection shall apply with respect to medical assistance furnished on or after July 1, 1988. Effective date. 42 USC 1396a note.

(c) COVERAGE OF CHILDREN UP[49] TO AGE 8.—

(1) Section 1905(n)(2) of such Act (42 U.S.C. 1396d(n)(2)) is amended by striking "is under 5 years of age" and inserting "has not attained the age of 7 (or any age designated by the State that exceeds 7 but does not exceed 8)".

(2) Section 1902(l)(1)(C) of such Act, as amended by subsection (b)(1)(B), is further amended by striking "or 5 years" and inserting "5, 6, 7, or 8 years".

(3)(A) The amendments made by this subsection shall apply to medical assistance furnished on or after October 1, 1988. Effective date. 42 USC 1396d note.

(B) For purposes of section 1905(n)(2) of the Social Security Act (as amended by subsection (a)) for medical assistance furnished during fiscal year 1989, any reference to "age of 7" is deemed to be a reference to "age of 6".

(d) PREMIUM.— 101 STAT. 1330-142

(1) Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended—

(A) in subsection (a)(1), by inserting "(except for a premium imposed under subsection (c))" before the semicolon;

(B) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(C) by inserting after subsection (b) the following new subsection:

"(c)(1) The State plan of a State may at the option of the State provide for imposing a monthly premium (in an amount that does not exceed the limit established under paragraph (2)) with respect to an individual described in subparagraph (A) or (B) of section 1902(l)(1) who is receiving medical assistance on the basis of section

[48] Copy read "UP".
[49] Copy read "UP".

1902(a)(10)(A)(ii)(IX) and whose family income (as determined in accordance with the methodology specified in section 1902(l)(3)) equals or exceeds 150 percent of the nonfarm income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(2) In no case may the amount of any premium imposed under paragraph (1) exceed 10 percent of the amount by which the family income (less expenses for the care of a dependent child) of an individual exceeds 150 percent of the line described in paragraph (1).

"(3) A State shall not require prepayment of a premium imposed pursuant to paragraph (1) and shall not terminate eligibility of an individual for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of not less than 60 days. The State may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.

"(4) A State may permit State or local funds available under other programs to be used for payment of a premium imposed under paragraph (1). Payment of a premium with such funds shall not be counted as income to the individual with respect to whom such payment is made.".

Effective date. 42 USC 1396o note.

(2) The amendments made by paragraph (1) shall become effective on July 1, 1988.

(e) MISCELLANEOUS PROVISIONS RELATING TO SERVICES FOR PREGNANT WOMEN AND CHILDREN.—

(1) Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended, in subdivision (VII) of the matter following subparagraph (E), by striking "and postpartum" and inserting "postpartum, and family planning".

(2) Section 1902(e)(5) of such Act (42 U.S.C. 1396a(e)(5)) is amended by striking "until the end of the 60-day period beginning on the last day of her pregnancy" and inserting "through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends".

(3) Section 1902(l)(3)(E) of such Act (42 U.S.C. 1396a(l)(3)(E)) is amended by inserting after "title IV" the following: "(except to the extent such methodology is inconsistent with clause (D) of subsection (a)(17))".

(4) Section 1902(l)(4)(A) of such Act (42 U.S.C. 1396a(l)(4)(A)) is amended by striking "April 17, 1986" and inserting "July 1, 1987".

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(5) Section 1902(l)(4) of such Act (42 U.S.C. 1396a(l)(4)) is amended by adding at the end the following new subparagraph:

"(C) A State plan may not provide, in its election of the option of furnishing medical assistance to individuals described in paragraph (1), that such individuals must apply for benefits under part A of title IV as a condition of applying for, or receiving, medical assistance under this title.".

Effective dates. 42 USC 1396a note.

(6)(A) The amendment made by paragraph [50] (1) shall become effective on the date of enactment of this Act.

(B) The amendments made by paragraphs (2) and (3) shall be effective as if they had been included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985.

(C) The amendment made by paragraph (4) shall apply to elections made on or after the enactment of this Act.

(D) The amendment made by paragraph (5) shall apply as if included in the enactment of section 9401 of the Omnibus Budget Reconciliation Act of 1986.

[50] Copy read "paragraphs".

SEC. 4102. HOME AND COMMUNITY-BASED SERVICES FOR THE ELDERLY.

(a) IN GENERAL.—

(1) Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended—

(A) by transferring subsection (d) to the end of such section and redesignating it as subsection (h), and

(B) by inserting after subsection (c) the following new subsection:

"(d)(1) Subject to paragraph (2), the Secretary shall grant a waiver to provide that a State plan approved under this title shall include as 'medical assistance' under such plan payment for part or all of the cost of home or community-based services (other than room and board) which are provided pursuant to a written plan of care to individuals 65 years of age or older with respect to whom there has been a determination that but for the provision of such services the individuals would be likely to require the level of care provided in a skilled nursing facility or intermediate care facility the cost of which could be reimbursed under the State plan.

"(2) A waiver shall not be granted under this subsection unless the State provides assurances satisfactory to the Secretary that—

"(A) necessary safeguards (including adequate standards for provider participation) have been taken to protect the health and welfare of individuals provided services under the waiver and to assure financial accountability for funds expended with respect to such services;

"(B) with respect to individuals 65 years of age or older who—

"(i) are entitled to medical assistance for skilled nursing or intermediate care facility services under the State plan,

"(ii) may require such services, and

"(iii) may be eligible for such home or community-based services under such waiver,

the State will provide for an evaluation of the need for such skilled nursing facility or intermediate care facility services; and

"(C) such individuals who are determined to be likely to require the level of care provided in a skilled nursing facility or intermediate care facility are informed of the feasible alternatives to the provision of skilled nursing facility or intermediate care facility services, which such individuals may choose if available under the waiver. 101 STAT. 1330-144

Each State with a waiver under this subsection shall provide to the Secretary annually, consistent with a reasonable data collection plan designed by the Secretary, information on the impact of the waiver granted under this subsection on the type and amount of medical assistance provided under the State plan and on the health and welfare of recipients.

"(3) A waiver granted under this subsection may include a waiver of the requirements of section 1902(a)(1) (relating to statewideness), section 1902(a)(10)(B) (relating to comparability), and section 1902(a)(10)(C)(i)(III) (relating to income and resource rules applicable in the community). Subject to a termination by the State (with notice to the Secretary) at any time, a waiver under this subsection shall be for an initial term of 3 years and, upon the request of a State, shall be extended for additional 5-year periods unless the Secretary determines that for the previous waiver period the assurances provided under paragraph (2) have not been met. A waiver may provide, with respect to post-eligibility treatment of income of all individuals receiving services under the waiver, that the maximum amount of the individual's income which may be disregarded for any month is equal to the amount that may be allowed for that purpose under a waiver under subsection (c).

"(4) A waiver under this subsection may, consistent with paragraph (2), provide medical assistance to individuals for case management services, homemaker/home health aide services and personal care services, adult day health services, respite care, and other

medical and social services that can contribute to the health and well-being of individuals and their ability to reside in a community-based care setting.

"(5)(A) In the case of a State having a waiver approved under this subsection, notwithstanding any other provision of section 1903 to the contrary, the total amount expended by the State for medical assistance with respect to skilled nursing facility services, intermediate care facility services, and home and community-based services under the State plan for individuals 65 years of age or older during a waiver year under this subsection may not exceed the projected amount determined under subparagraph (B).

"(B) For purposes of subparagraph (A), the projected amount under this subparagraph is the sum of the following:

"(i) The aggregate amount of the State's medical assistance under this title for skilled nursing facility services and intermediate care facility services furnished to individuals who have attained the age of 65 for the base year increased by a percentage which is equal to the lesser of 7 percent times the number of years beginning after the base year and ending before the waiver year involved or the sum of—

"(I) the percentage increase (based on an appropriate market-basket index representing the costs of elements of such services) between the base year and the waiver year involved, plus

"(II) the percentage increase between the base year and the waiver year involved in the number of residents in the State who have attained the age of 65, plus

"(III) 2 percent for each year beginning after the base year and ending before the waiver year.

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"(ii) The aggregate amount of the State's medical assistance under this title for home and community-based services for individuals who have attained the age of 65 for the base year increased by a percentage which is equal to the lesser of 7 percent times the number of years beginning after the base year and ending before the waiver year involved or the sum of—

"(I) the percentage increase (based on an appropriate market-basket index representing the costs of elements of such services) between the base year and the waiver year involved, plus

"(II) the percentage increase between the base year and the waiver year involved in the number of residents in the State who have attained the age of 65, plus

"(III) 2 percent for each year beginning after the base year and ending before the waiver year.

Regulations.

"(iii) The Secretary shall develop and promulgate by regulation (by not later than October 1, 1989)—

"(I) a method, based on an index of appropriately weighted indicators of changes in the wages and prices of the mix of goods and services which comprise both skilled nursing facility services and intermediate care facility services (regardless of the source of payment for such services), for projecting the percentage increase for purposes of clause (i)(I);

"(II) a method, based on an index of appropriately weighted indicators of changes in the wages and prices of the mix of goods and services which comprise home and community-based services (regardless of the source of payment for such services), for projecting the percentage increase for purposes of clause (ii)(I); and

"(III) a method for projecting, on a State specific basis, the percentage increase in the number of residents in each State who are over 75 years of age for any period.

Effective on and after the date the Secretary promulgates the regulation under clause (iii), any reference in this subparagraph to the 'lesser of 7 percent' shall be deemed to be a reference to the 'greater of 7 percent'.

"(C) In this paragraph:

"(i) The term 'home and community-based services' includes services described in sections 1905(a)(7) and 1905(a)(8), services described in subsection (c)(4)(B), services described in paragraph (4)(B), personal care services, and services furnished pursuant to a waiver under subsection (c).

"(ii)(I) Subject to subclause (II), the term 'base year' means the most recent year (ending before the date of the enactment of this subsection) for which actual final expenditures under this title have been reported to, and accepted by, the Secretary.

"(II) For purposes of subparagraph (C), in the case of a State that does not report expenditures on the basis of the age categories described in such subparagraph for a year ending before the date of the enactment of this subsection, the term 'base year' means fiscal year 1989.

"(iii) The term 'intermediate care facility services' does not include services furnished in an institution certified in accordance with section 1905(d).

"(6)(A) A determination by the Secretary to deny a request for a waiver (or extension of waiver) under this subsection shall be subject to review to the extent provided under section 1116(b). 101 STAT. 1330-146

"(B) Notwithstanding any other provision of this Act, if the Secretary denies a request of the State for an extension of a waiver under this subsection, any waiver under this subsection in effect on the date such request is made shall remain in effect for a period of not less than 90 days after the date on which the Secretary denies such request (or, if the State seeks review of such determination in accordance with subparagraph (A), the date on which a final determination is made with respect to such review).".

(2) The amendments made by paragraph (1) shall become effective on January 1, 1988. Effective date. 42 USC 1396n note.

(b) CONFORMING AMENDMENTS.—

(1) Section 1902(a)(10)(A)(ii)(VI) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(VI)) is amended by striking "section 1915(c)" each place it appears and inserting "subsection (c) or (d) of section 1915".

(2) Section 1915(h) of such Act, as redesignated by subsection (a), is amended by striking "(c)" and inserting in lieu thereof "(c) or (d)".

(c) EXTENSION OF WAIVER.—In the case of a State which, as of December 1, 1987, has a waiver approved with respect to elderly individuals under section 1915(c) of the Social Security Act, which waiver is scheduled to expire before July 1, 1988, if the State notifies the Secretary of Health and Human Services of the State's intention to file an application for a waiver under section 1915(d) of such Act (as amended by subsection (a) of this section), the Secretary shall extend approval of the State's waiver, under section 1915(c) of such Act, on the same terms and conditions through September 30, 1988. 42 USC 1396n note.

SEC. 4103. PHYSICIANS' SERVICES FURNISHED BY DENTISTS.

(a) CLARIFYING COVERAGE.—Section 1905(a)(5) of the Social Security Act (42 U.S.C. 1396d(a)(5)) is amended by inserting "(A)" after "(5)" and by inserting before the semicolon at the end the following: ", and (B) medical and surgical services furnished by a dentist (described in section 1861(r)(2)) to the extent such services may be performed under State law either by a doctor of medicine or by a doctor of dental surgery or dental medicine and would be described in subparagraph (A) if furnished by a physician (as defined in section 1861(r)(1))".

(b) EFFECTIVE DATE.— 42 USC 1396d note.

(1) The amendment made by subsection (a) applies (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1988, without regard to whether or not final

regulations to carry out such amendment have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendment made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

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SEC. 4104. OPTIONAL MEDICAID COVERAGE OF INDIVIDUALS IN CERTAIN STATES RECEIVING ONLY OPTIONAL STATE SUPPLEMENTARY PAYMENTS.

Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) by striking "or" at the end of subclause (IX) and inserting "or" at the end of subclause (X); and

(2) by adding at the end the following new subclause:

"(XI) who receive only an optional State supplementary payment based on need and paid on a regular basis, equal to the difference between the individual's countable income and the income standard used to determine eligibility for such supplementary payment (with countable income being the income remaining after deductions as established by the State pursuant to standards that are more restrictive than the standards for supplementary security income benefits under title XVI), which are available to all individuals in the State (but which may be based on different income standards by political subdivision according to cost of living differences), and which are paid by a State that does not have an agreement with the Secretary under section 1616 or 1634.".

SEC. 4105. CLARIFICATION OF COVERAGE OF CLINIC SERVICES FURNISHED TO HOMELESS OUTSIDE FACILITY.

(a) IN GENERAL.—Section 1905(a)(9) of the Social Security Act (42 U.S.C. 1396d(a)(9)) is amended by inserting before the semicolon at the end the following: ", including such services furnished outside the clinic by clinic personnel to an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address".

42 USC 1396d note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1988, without regard to whether regulations to implement such amendment are promulgated by such date.

SEC. 4106. MEDICALLY NEEDY INCOME LEVELS FOR CERTAIN 2-MEMBER COUPLES IN CALIFORNIA.

For purposes of section 1903(f)(1)(B) of the Social Security Act, for payments made to California on or after July 1, 1983, in the case of a family consisting only of two individuals both of whom are adults and at least one of whom is aged, blind, or disabled, the "highest amount which would ordinarily be paid to a family of the same size" under the State's plan approved under part A of title IV of such Act shall, at California's option, be the amount determined by the State agency to be the amount of the aid which would ordinarily be payable under such plan to a family which consists of one adult and two children and which is without any income or resources. Section 1902(a)(10)(C)(i)(III) of the Social Security Act shall not prevent

California from establishing (under the previous sentence) an applicable income limitation for families described in that sentence which is greater than the income limitation applicable to other families, if California has an applicable income limitation under section 1903(f) of such Act which is equal to the maximum applicable income limitation permitted consistent with paragraph (1)(B) of such section for families other than those described in the previous sentence. 101 STAT. 1330-148

PART 2—OTHER PROVISIONS

SEC. 4111. INCREASING THE MAXIMUM ANNUAL MEDICAID PAYMENTS THAT MAY BE MADE TO THE COMMONWEALTHS AND TERRITORIES.

(a) IN GENERAL.—Subsection (c) of section 1108 of the Social Security Act (42 U.S.C. 1308) is amended to read as follows:

"(c) The total amount certified by the Secretary under title XIX with respect to a fiscal year for payment to—

"(1) Puerto Rico shall not exceed (A) $73,400,000 for fiscal year 1988, (B) $76,200,000 for fiscal year 1989, and (C) $79,000,000 for fiscal year 1990 (and each succeeding fiscal year);

"(2) the Virgin Islands shall not exceed (A) $2,430,000 for fiscal year 1988, (B) $2,515,000 for fiscal year 1989, and (C) $2,600,000 for fiscal year 1990 (and each succeeding fiscal year);

"(3) Guam shall not exceed (A) $2,320,000 for fiscal year 1988, (B) $2,410,000 for fiscal year 1989, and (C) $2,500,000 for fiscal year 1990 (and each succeeding fiscal year);

"(4) the Northern Mariana Islands shall not exceed (A) $636,700 for fiscal year 1988, (B) $693,350 for fiscal year 1989, and (C) $750,000 for fiscal year 1990 (and each succeeding fiscal year); and

"(5) American Samoa shall not exceed (A) $1,330,000 for fiscal year 1988, (B) $1,390,000 for fiscal year 1989, and (C) $1,450,000 for fiscal year 1990 (and each succeeding fiscal year).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments for fiscal years beginning with fiscal year 1988. 42 USC 1308 note.

SEC. 4112. ADJUSTMENT IN MEDICAID PAYMENT FOR INPATIENT HOSPITAL SERVICES FURNISHED BY DISPROPORTIONATE SHARE HOSPITALS. 42 USC 1396a note.

(a) IMPLEMENTATION OF REQUIREMENT.—

(1) A State's plan under title XIX of the Social Security Act shall not be considered to meet the requirement of section 1902(a)(13)(A) of such Act (insofar as it requires payments to hospitals to take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs), as of July 1, 1988, unless the State has submitted to the Secretary of Health and Human Services, by not later than such date, an amendment to such plan that—

(A) specifically defines the hospitals so described (and includes in such definition any disproportionate share hospital described in subsection (b)(1) which meets the requirement of subsection (d)), and

(B) provides, effective for inpatient hospital services provided not later than July 1, 1988, for an appropriate increase in the rate or amount of payment for such services provided by such hospitals, consistent with subsection (c).

(2)(A) In order to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1989, the State must submit to the Secretary of Health and Human Services by not later than such date, the State plan amendment described in paragraph (1), consistent with subsection (c).

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(B) In order to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1990, the State must submit to the Secretary of Health and Human Services by not later than such date, the State plan amendment described in paragraph (1), consistent with subsection (c).

The Secretary shall, not later than June 30 of each year in which the State is required to submit an amendment under this subsection, review each such amendment for compliance with such requirement and by such date shall approve or disapprove each such amendment. If the Secretary disapproves such an amendment, the State shall immediately submit a revised amendment which meets such requirement. The requirement of this subsection may not be waived under section 1915(b)(4) of the Social Security Act.

(b) HOSPITALS DEEMED DISPROPORTIONATE SHARE.—

(1) For purposes of subsection (a)(1), a hospital which meets the requirement of subsection (d) is deemed to be a disproportionate share hospital if—

(A) the hospital's medicaid inpatient utilization rate (as defined in paragraph (2)) is at least one standard deviation above the mean medicaid inpatient utilization rate for hospitals receiving medicaid payments in the State; or

(B) the hospital's low-income utilization rate (as defined in paragraph (3)) exceeds 25 percent.

(2) For purposes of paragraph (1)(A), the term "medicaid inpatient utilization rate" means, for a hospital, a fraction (expressed as a percentage), the numerator of which is the hospital's number of inpatient days attributable to patients who (for such days) were eligible for medical assistance under the State plan approved under title XIX of the Social Security Act in a period, and the denominator of which is the total number of the hospital's inpatient days in that period.

(3) For purposes of paragraph (1)(B), the term "low-income utilization rate" means, for a hospital, the sum of—

(A) the fraction (expressed as a percentage)—

(i) the numerator of which is the sum (for a period) of (I) the total revenues paid the hospital for patient services under a State plan under title XIX of the Social Security Act and (II) the amount of the cash subsidies for patient services received directly from State and local governments, and

(ii) the denominator of which is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in the period; and

(B) a fraction (expressed as a percentage)—

(i) the numerator of which is the total amount of the hospital's charges for inpatient hospital services which are attributable to charity care in a period, and

(ii) the denominator of which is the total amount of the hospital's charges for inpatient hospital services in the hospital in the period.

The numerator under subparagraph (B)(i) shall not include contractual allowances and discounts (other than for indigent patients not eligible for medical assistance under a State plan approved under title XIX of the Social Security Act).

(c) PAYMENT ADJUSTMENT.—In order to be consistent with this subsection, a payment adjustment for a disproportionate share hospital must either—

101 STAT. 1330-150

(1) be in an amount equal to the product of (A) the amount paid under the State plan to the hospital for operating costs for inpatient hospital services (of the kind described in section 1886(a)(4)), and (B) the hospital's disproportionate share adjustment percentage (established under section 1886(d)(5)(F)(iv)); or

(2) provide for a minimum specified additional payment amount (or increased percentage payment) and for an increase in such a payment amount (or percentage payment) in proportion to the percentage by which the hospital's medicaid utiliza-

tion rate (as defined in subsection (b)(2)) exceeds one standard deviation above the mean medicaid inpatient utilization rate for hospitals receiving medicaid payments in the State;

except that, for purposes of paragraphs (2)(A) and (2)(B), the payment adjustment for a disproportionate share hospital is consistent with this subsection if the appropriate increase in the rate or amount of payment is equal to one-third of the increase otherwise applicable under subsection (c) (in the case of paragraph (2)(A)) and two-thirds of such increase (in the case of paragraph (2)(B)).

(d) REQUIREMENT TO [51] QUALIFY AS DISPROPORTIONATE SHARE HOSPITAL.—

(1) Except as provided in paragraph (2), no hospital may be defined or deemed as a disproportionate share hospital under a State plan under title XIX of the Social Security Act or under subsection (b) of this section unless the hospital has at least 2 obstetricians who have staff privileges at the hospital and who have agreed to provide obstetric services to individuals who are entitled to medical assistance for such services under such State plan.

(2)(A) Paragraph (1) shall not apply to a hospital—

(i) the inpatients of which are predominantly individuals under 18 years of age; or

(ii) which does not offer nonemergency obstetric services to the general population as of the date of the enactment of this Act.

(B) In the case of a hospital located in a rural area (as defined for purposes of section 1886 of the Social Security Act), in paragraph (1) the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures.

(e) SPECIAL RULE.—A State plan shall be considered to meet the requirement of section 1902(a)(13)(A) (insofar as it requires payments to hospitals to take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs) without regard to the requirement of subsection (a) if the plan provided for payment adjustments for disproportionate share hospitals as of January 1, 1984, and if the aggregate amount of the payment adjustments under the plan for such hospitals is not less than the aggregate amount of such adjustments otherwise required to be made under such subsection.

SEC. 4113. HMO-RELATED PROVISIONS.

(a) TREATMENT OF GARDEN STATE HEALTH PLAN.—

(1) Section 1903(m) of the Social Security Act (42 U.S.C. 1396(m)) is amended— 42 USC 1396b.

(A) by adding at the end the following new paragraph: 101 STAT. 1330-151

"(6)(A) For purposes of this subsection and section 1902(e)(2)(A), in the case of the State of New Jersey, the term 'contract' shall be deemed to include an undertaking by the State agency, in the State plan under this title, to operate a program meeting all requirements of this subsection. Contracts.

"(B) The undertaking described in subparagraph (A) must provide—

"(i) for the establishment of a separate entity responsible for the operation of a program meeting the requirements of this subsection, which entity may be a subdivision of the State agency administering the State plan under this title;

"(ii) for separate accounting for the funds used to operate such program;

"(iii) for setting the capitation rates and any other payment rates for services provided in accordance with this subsection using a methodology satisfactory to the Secretary designed to ensure that total Federal matching payments under this title

[51] Copy read "TO".

for such services will be lower than the matching payments that would be made for the same services, if provided under the State plan on a fee for service basis to an actuarially equivalent population; and

Contracts.

"(iv) that the State agency will contract, for purposes of meeting the requirement under section 1902(a)(30)(C), with an organization or entity that under section 1154 reviews services provided by an eligible organization pursuant to a contract under section 1876 for the purpose of determining whether the quality of services meets professionally recognized standards of health care.

Contracts.

"(C) The undertaking described in subparagraph (A) shall be subject to approval (and annual re-approval) by the Secretary in the same manner as a contract under this subsection.

"(D) The undertaking described in subparagraph (A) shall not be eligible for a waiver under section 1915(b).''; and

(B) in paragraph (2)(F), by striking all that precedes "a State plan may restrict" and inserting the following:

[52] "(E) In the case of—

Contracts.

[53] "(i) a contract with an entity described in subparagraph (G) or with a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) which meets the requirement of subparagraph (A)(ii), or

"(ii) a program pursuant to an undertaking described in paragraph (6) in which at least 25 percent of the membership enrolled on a prepaid basis are individuals who (I) are not insured for benefits under part B of title XVIII or eligible for benefits under this title, and (II) (in the case of such individuals whose prepayments are made in whole or in part by any government entity) had the opportunity at the time of enrollment in the program to elect other coverage of health care costs that would have been paid in whole or in part by any governmental entity,".

(2) Section 1902(e)(2)(A) of such Act (42 U.S.C. 1396a(e)(2)(A)) is amended by striking "section 1903(m)(2)(G)" and inserting "paragraph (2)(G) or (6) of section 1903(m)".

101 STAT. 1330–152

(b) MEDICAID MATCHING RATE FOR QUALITY REVIEW OF HMO SERVICES.—

(1) Section 1902(a)(30)(C) of such Act (42 U.S.C. 1396a(a)(30)(C)) is amended by inserting ", an entity which meets the requirements of section 1152, as determined by the Secretary," after "title XI)".

(2) Section 1902(d) of such Act (42 U.S.C. 1396a(d)) is amended—

Contracts.

(i) by inserting after "contracts with" the following: "an entity which meets the requirements of section 1152, as determined by the Secretary, for the performance of the quality review functions described in subsection (a)(30)(C), or", and

(ii) by striking "organization (or organizations)" each place it appears and inserting "such an entity or organization".

(3) Section 1903(a)(3)(C) of such Act (42 U.S.C. 1396b(a)(3)(C)) is amended by inserting "or by an entity which meets the requirements of section 1152, as determined by the Secretary," after "utilization and quality control peer review organization".

(c) FREEDOM OF CHOICE.—

(1) Section 1902(a)(23) of such Act (42 U.S.C. 1396a(a)(23)) is amended—

(A) by inserting "(A)" after "Guam, provide that", and

(B) by inserting before the semicolon at the end the following: ", and (B) an enrollment of an individual eligible for medical assistance in a primary care case-management

[52] Copy read "(F)".
[53] Copy read "(i)".

system (described in section 1915(b)(1)), a health maintenance organization, or a similar entity shall not restrict the choice of the qualified person from whom the individual may receive services under section 1905(a)(4)(C)".

(2) Section 1902(e)(2)(A) of such Act (42 U.S.C. 1396a(e)(2)(A)) is amended by striking "but only" and inserting "but, except for benefits furnished under section 1905(a)(4)(C), only".

(3) The amendments made by this subsection shall apply to services furnished on and after July 1, 1988.

Effective date. 42 USC 1396a note.

(d) TECHNICAL AMENDMENTS.—

(1) Section 1903(m)(2)(F) of such Act (42 U.S.C. 1396b(m)(2)(F)) is amended by striking "subparagraph (G)" and inserting "subparagraphs (E) or (G)".

(2) Section 1902(e)(2)(A) of such Act (42 U.S.C. 1396a(e)(2)(A)) is amended by striking "section 1903(m)(2)(G)" and inserting "subparagraph (B)(iii), (E), or (G) of section 1903(m)(2)".

(e) CONTINUED ELIGIBILITY AND RESTRICTION ON DISENROLLMENT WITHOUT CAUSE FOR METROPOLITAN HEALTH PLAN HMO.—For purposes of sections 1902(e)(2)(A) and 1903(m)(2)(F) of the Social Security Act, the Metropolitan Health Plan HMO operated by the New York City public hospitals shall be treated in the same manner as a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act).

SEC. 4114. MEDICAID WAIVER FOR HOSPICE CARE FOR AIDS PATIENTS.

Section 1905(o)(1) of the Social Security Act (42 U.S.C. 1396d(o)(1)) is amended—

(1) by inserting "(A)" after "(1)";

(2) by striking "The" and inserting "Subject to subparagraph (B), the"; and

101 STAT. 1330-153

(3) by adding at the end the following new subparagraph:

"(B) For purposes of this title only, with respect to the definition of hospice program under section 1861(dd)(2), the Secretary may allow an agency or organization to make the assurance under subparagraph (A)(iii) of such section without taking into account any individual who is afflicted with acquired immunodeficiency syndrome.".

SEC. 4115. STATE DEMONSTRATION PROJECTS.

(a) EXTENSION OF ARIZONA HEALTH CARE DEMONSTRATION PROJECT.—

(1) Notwithstanding any limitations contained in section 1115 of the Social Security Act, but subject to paragraphs (2) and (3) of this subsection, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") upon application shall renew until September 30, 1989, approval of demonstration project number 11-P-98239/9-05 ("Arizona Health Care Cost Containment System—AHCCCS—A statewide approach to cost effective health care financing"), including all waivers granted by the Secretary under such section 1115 as of September 30, 1987.

(2) The Secretary's renewed approval of the project under paragraph (1) shall—

(A) subject to paragraph (3) be on the same terms and conditions that existed between the applicant and the Secretary as of September 30, 1987; and

(B) remain in effect through September 30, 1989, unless the Secretary finds that the applicant no longer complies with such terms and conditions.

(3) Nothing in this subsection shall be construed to prohibit or require the Secretary from granting additional waivers to the applicant—

(A) for coverage of additional optional groups, and

(B) for coverage of long-term care and other services which were not covered as of September 30, 1987.

(b) NEW YORK STATE PILOT PROGRAM FOR PRENATAL, MATERNITY, AND NEWBORN CARE.—

(1) Upon application by the State of New York and approval by the Secretary of Health and Human Services (in this subsection referred to as the "Secretary"), the State of New York (in this subsection referred to as the "State") may conduct a demonstration project in accordance with this subsection for the purpose of testing its Prenatal/Maternity/Newborn Care Pilot Program (in this subsection referred to as the "Program"), as the Program is set forth in the Prenatal Care Act of 1987 (enacted by the State in February 1987), as an alternative to existing Federal programs.

(2) Under the demonstration project conducted under this subsection—

(A) any individual who receives benefits under the Program shall not receive any of such benefits under the plan of the State under title XIX of the Social Security Act; and

(B) the Secretary shall make payments to the State with respect to individuals receiving benefits under the Program in the same amounts as would be payable for such benefits under title XIX of the Social Security Act if such individuals were receiving such benefits under such title (as determined by the Secretary).

101 STAT. 1330-154

(3) The Secretary may (with respect to the demonstration project under this subsection) waive compliance with any requirement contained in section 1902(a)(1), 1902(a)(10)(B), 1902(a)(17)(D), 1902(a)(23), 1902(a)(30), or 1903(f) of the Social Security Act which (if applied) would prevent the State from carrying out the project, effectively achieving its purpose, or receiving payments in accordance with paragraph (2)(B).

(4) As a condition of approval of the demonstration project under this subsection, the State shall provide assurances satisfactory to the Secretary that—

(A) the State will continue to make benefits available under title XIX of the Social Security Act to all pregnant women entitled to receive benefits under such title to the extent such benefits are not provided under the Program; and

(B) the State has in effect a quality assurance mechanism to ensure the quality and accessibility of the services furnished under the program.

(5)(A) The demonstration project under this subsection shall be conducted for a period not to exceed three years.

Reports.

(B) The Secretary shall conduct an evaluation of the demonstration project under this subsection and shall report the results of such evaluation to the Congress not later than one year after completion of the project.

(c) WAIVERS FOR FAMILY INDEPENDENCE PROGRAM.—Upon approval of the demonstration project relating to the Family Independence Program in the State of Washington and with respect to such project, the Secretary of Health and Human Services shall waive compliance with any requirements of sections 1902(a)(1), 1916, and 1924 of the Social Security Act, but only to the extent necessary to enable the State to carry out the project as enacted by the State of Washington in May 1987.

SEC. 4116. WAIVER AUTHORITY UNDER THE MEDICAID PROGRAM FOR THE NORTHERN MARIANA ISLANDS.

Section 1902(j) of the Social Security Act (42 U.S.C. 1396a(j)) is amended—

(1) by inserting "and the Northern Mariana Islands" after "American Samoa" the first place it appears; and

(2) by inserting "or the Northern Mariana Islands" after "American Samoa" the second place it appears.

SEC. 4117. DELAY QUALITY CONTROL SANCTIONS FOR MEDICAID.

42 USC 1396b note.

The Secretary of Health and Human Services shall not, prior to July 1, 1988, implement any reductions in payments to States pursuant to section 1903(u) of the Social Security Act (or any provision of law described in subsection (c) of section 133 of the Tax Equity and Fiscal Responsibility Act of 1982).

SEC. 4118. TECHNICAL AND MISCELLANEOUS AMENDMENTS.

(a) SECTION 2176 WAIVER TECHNICALS.—

(1) Section 1915(c)(3) of the Social Security Act (42 U.S.C. 1396n(c)(3)) is amended by striking "and section 1902(a)(10)(B) (relating to comparability)" and inserting ", section 1902(a)(10)(B) (relating to comparability), and section 1902(a)(10)(C)(i)(III) (relating to income and resource rules applicable in the community)". 101 STAT. 1330-155

(2) The amendment made by paragraph (1) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

42 USC 1396n note.

(b) INCREASE IN NUMBER OF INDIVIDUALS WHO MAY [54] BE SERVED UNDER MODEL HOME AND COMMUNITY-BASED SERVICES WAIVERS.—Section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) is amended by adding at the end the following new paragraph:

"(10) No waiver under this subsection shall limit by an amount less than 200 the number of individuals in the State who may receive home and community-based services under such waiver.".

(c) KATIE BECKETT TECHNICAL.—

(1) Section 1902(e)(3)(C) of such Act (42 U.S.C. 1396a(e)(3)(C)) is amended by striking "to have a supplemental security income (or State supplemental) payment made with respect to him under title XVI" and inserting "for medical assistance under the State plan under this title".

(2) The amendment made by paragraph (1) shall be effective as if it were included in section 134 of the Tax Equity and Fiscal Responsibility Act of 1982.

42 USC 1396a note.

(d) ORGAN TRANSPLANT TECHNICAL.—

(1) Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)) is amended—

(A) in paragraph (1), by striking the period at the end and inserting "; or", and

(B) by adding at the end the following new sentence: "Nothing in paragraph (1) shall be construed as permitting a State to provide services under its plan under this title that are not reasonable in amount, duration, and scope to achieve their purpose.".

(2) The amendments made by paragraph (1) shall be effective as if included in the enactment of section 9507 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

Effective date. 42 USC 1396b note.

(e) CIVIL MONEY PENALTY AND EXCLUSION CLARIFICATIONS.—

(1) Section 1128A(a)(1) of the Social Security Act (42 U.S.C. 1320a-7(a)(1)), as amended by section 3(a)(1) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Public Law 100-93), is amended by striking "or has reason to know" each place it appears and inserting "or should know".

42 USC 1320a-7a.

(2) Section 1128(d)(3)(B) of the such Act (42 U.S.C. 1320a-6(d)(3)(B)), as amended by section 2 of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Public Law 100-93), is amended—

42 USC 1320a-7.

(A) by inserting "(i)" after "(B)", and

(B) by adding at the end the following new clause:

"(ii) A State health care program may provide for a period of exclusion which is longer than the period of exclusion under a program under title XVIII.".

[54] Copy read "WHO MAY".

Effective date.
42 USC 1320a-7a note.

(3) The amendment made by paragraph (1) shall apply to activities occurring before, on, or after the date of the enactment of this Act.

(f) INCORPORATION OF CERTAIN PROVISIONS RELATING TO INDIAN HEALTH SERVICE FACILITIES.—

101 STAT. 1330-156

(1) Section 1911 of the Social Security Act (42 U.S.C. 1396j), as amended by section 4111(g)(8) of this title, is amended—

(A) by striking "or nursing facility" each place it appears and inserting ", nursing facility, or any other type of facility which provides services of a type otherwise covered under the State plan"; and

(B) by adding at the end the following new subsection:

"(c) The Secretary is authorized to enter into agreements with the State agency for the purpose of reimbursing such agency for health care and services provided in Indian Health Service facilities to Indians who are eligible for medical assistance under the State plan.".[55]

Effective date.
42 USC 1396j note.

(2) The amendments made by paragraph (1) shall apply to health care services performed on or after the date of the enactment of this Act.

(g) FRAIL ELDERLY DEMONSTRATION PROJECT WAIVERS.—

100 Stat. 2063.

(1) Section 9412(b)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended—

(A) in subparagraph (A), by inserting before the period at the end the following: ", including permitting the organization to assume progressively (over the initial 3-year period of the waiver) the full financial risk", and

(B) in subparagraph (B), by striking "be awarded a grant from the Robert Wood Johnson Foundation" and insert "participate in an organized initiative to replicate the findings of the On Lok long-term care demonstration project (described in section 603(c)(1) of the Social Security Amendments of 1983)".

Effective date.

(2) The amendments made by paragraph (1) shall take effect as though it were included in the Omnibus Budget Reconciliation Act of 1986.

(h) MEDICALLY NEEDY INCURRED EXPENSES.

(1) Section 1902(a)(17) of the Social Security Act (42 U.S.C. 1396a(a)(17)) is amended by striking "(whether in the form of insurance premiums or otherwise)" and inserting "(whether in the form of insurance premiums or otherwise and regardless of whether such costs are reimbursed under another public program of the State or political subdivision thereof)".

Effective date.
42 USC 1396a note.

(2) The amendment made by paragraph (1) shall apply to costs incurred after the date of the enactment of this Act.

(i) QUALIFICATIONS FOR CASE MANAGERS FOR INDIVIDUALS WITH DEVELOPMENT DISABILITIES AND CHRONIC MENTAL ILLNESS.—

(1) Section 1915(g)(1) of such Act (42 U.S.C. 1396n(g)(1)) is amended by adding at the end the following new sentence: "The State may limit the case managers available with respect to case management services for eligible individuals with developmental disabilities or with chronic mental illness in order to ensure that the case managers for such individuals are capable of ensuring that such individuals receive needed services.".

Effective date.
42 USC 1396n note.

(2) The amendment made by paragraph (1) shall take effect as though it were included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985.

42 USC 1396n note.

(j) HABILITATION SERVICES EFFECTIVE DATE.—Effective as if included in the enactment of section 9502 of the Consolidated Omnibus Budget Reconciliation Act of 1985, subsection (j)(1) of such section is amended by inserting before the period at the end the following: "to individuals eligible for services under a waiver granted under section 1915(c) of the Social Security Act, without

101 STAT. 1330-157

[55] Subparagraph "(c)" indented incorrectly.

regard to whether such individuals were receiving institutional services before their participation in the waiver".

(k) SECTION 2176 WAIVER FOR INSTITUTIONALIZED DEVELOPMENTALLY DISABLED.—Section 1915(c)(7) of the Social Security Act (42 U.S.C. 1396n(c)(7)) is amended by inserting "(A)" after "(7)" and adding at the end the following new subparagraph:

"(B) In making estimates under paragraph (2)(D) in the case of a waiver that applies only to individuals with developmental disabilities who are inpatients in a skilled nursing facility or intermediate care facility and whom the State has determined, on the basis of an evaluation under paragraph (2)(B), to need the level of services provided by an intermediate care facility for the mentally retarded, the State may determine the average per capita expenditures that would have been made in a fiscal year for those individuals under the State plan on the basis of the average per capita expenditures under the State plan for services to individuals who are inpatients in an intermediate care facility for the mentally retarded.".

(l) RENEWAL OF FREEDOM-OF-CHOICE WAIVERS.—

(1) Section 1915(h) of such Act (42 U.S.C. 1396n(h)) is amended by striking "denies such request in writing within 90 days after the date of its submission to the Secretary." and inserting ", within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the State agency in writing with respect to any additional information which is needed in order to make a final determination with respect to the request. After the date the Secretary receives such additional information, the request shall be deemed granted unless the Secretary, within 90 day of such date, denies such request.".

(2) The amendment made by paragraph (1) shall apply to requests for continuation of waivers received after the date of the enactment of this Act.

Effective date. 42 USC 1396n note.

(m) REPEAL OF COORDINATED AUDIT REQUIREMENT.—

(1)(A) Section 1129 of such Act (42 U.S.C. 1320a-8) is repealed.

(B) Section 1902(a)(42) of such Act (42 U.S.C. 1396a(a)(42)) is amended—

(i) by striking "(A)", and

(ii) by striking ", (B)" and all that follows up to the semicolon at the end.

(2) The amendments made by paragraph (1) shall apply to audits conducted after the date of the enactment of this Act.

Effective date. 42 USC 1396a note. 42 USC 1396b note.

(n) TEMPORARY TECHNICAL ERROR DEFINITION.—For purposes of section 1903(u)(1)(E)(ii) of the Social Security Act, effective for the period beginning on the date of enactment of this Act and ending December 31, 1988, a "technical error" [56] is an error in eligibility condition (such as assignment of social security numbers and assignment of rights to third-party benefits as a condition of eligibility) that, if corrected, would not result in a difference in the amount of medical assistance paid.

101 STAT. 1330-158

(o) TECHNICAL AMENDMENTS RELATING TO NEW JERSEY RESPITE CARE PILOT PROJECT.—

(1) Section 9414(b) of the Omnibus Budget Reconciliation Act of 1986 is amended—

100 Stat. 2064.

(A) by redesignating paragraphs (2), (3), and (4), as paragraphs (3), (4), and (5), respectively,

(B) by inserting after paragraph (1) the following new paragraph:

"(2) provide that the State may submit a detailed proposal describing the project (in lieu of a formal request for the waiver of applicable provisions of title XIX of the Social Security Act) and that submission of such a description by the State will be treated as such a request for purposes of subsection (g),", and

[56] Copy read " 'technical error' ".

(C) in paragraph (3), as redesignated by [56a] paragraph (1) of this subsection, by striking "if the project" and all that follows through "Act" the second place it appears and inserting "the State shall utilize a post-eligibility cost-sharing formula based on the available income of participants with income in excess of the nonfarm income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981)".

(2)(A) Section 9414(a) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "elderly and disabled individuals" and inserting "eligible individuals".

(B) Section 9414(c) of the Omnibus Budget Reconciliation Act of 1986 is amended to read as follows:

"(c) DEFINITIONS.—For purposes of this section—

"(1) the term 'eligible individual' means an individual—

"(A) who is elderly or disabled,

"(B)(i) whose income (not including the income of the spouse or family of the individual) does not exceed 300 percent of the amount in effect under section 1611(a)(1)(A) of the Social Security Act (as increased pursuant to section 1617 of such Act), or

"(ii) in the case of an individual and spouse who are both dependent on a caregiver, whose combined incomes do not exceed such amount,

"(C) whose liquid resources (as declared by the individual) do not exceed $40,000,

"(D) who is at risk of institutionalization unless the individual's caregiver is provided with respite care, and

"(E) who has been determined to meet the requirements of subparagraphs (A) through (D) in accordance with an application process designed by the State; and

"(2) the term 'respite care services' shall include—

"(A) short-term and intermittent—

"(i) companion or sitter services (paid as well as volunteer),

"(ii) homemaker and personal care-services,

"(iii) adult day care, and

"(iv) inpatient care in a hospital, a skilled nursing facility, or an intermediate care facility (not to exceed a total of 14 days for any individual), and

"(B) peer support and training for family caregivers (using informal support groups and organized counseling).".

101 STAT. 1330-159

(3) Section 9414(g) of the Omnibus Budget Reconciliation Act of 1986 is amended by inserting "section 1902(a)(10)(C)(i)(III)," after "section 1902(a)(10)(B),".

100 Stat. 2064.

Effective date.

(4) The amendments made by this subsection shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

(p) MISCELLANEOUS TECHNICAL CORRECTIONS.—

(1) Subclause (IX) of section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended by moving it 4 ems to the right so as to align its left margin with that of subclause (VIII) of that section.

(2) Subclause (X) of section 1902(a)(10)(A)(ii) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended by moving it 2 ems to the right so as to align its left margin with that of subclause (VIII) of that section.

(3) Section 1902(a)(17) of such Act (42 U.S.C. 1396a(a)(17)) is amended by striking "subsection (l)(3)" and inserting "subsections (l)(3), (m)(4), and (m)(5)".

42 USC 1396a.

(4) Section 1902(a)(30)(C) of such Act (42 U.S.C. 1396(a)(30)(C)) is amended by striking "provide" and inserting "use".

[56a] Copy read "by by".

(5) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended by inserting ", 1902(a)(10)(A)(ii)(X), or 1905(p)(1)" after "1902(a)(10)(A)(ii)(IX)".

(6) Paragraph (9) of section 1902(e) of such Act (42 U.S.C. 1396a(e)) is amended by moving the paragraph 2 ems to the left so as to align the left margin of subparagraph (A) (before clause (i)) and subparagraphs (B) and (C) with the left margin of paragraph (8).

(7) Section 1902(l)(1) of such Act (42 U.S.C. 1396a(l)(1)) is amended—

(A) by striking "(1)(l) Individuals" and inserting "(l)(1) Individuals",

(B) by moving the matter before subparagraph (A) 2 ems to the left so it is indented only once, and

(C) by striking ", whose" and inserting "and whose".

(8) Sections 1902(l)(2), 1902(m)(2)(A), 1905(p)(2)(A), and 501(b)(2) of such Act (42 U.S.C. 1396a(l)(2), 1396a(m)(2)(A), 1396d(p)(2)(A), 701(b)(2)) are each amended by striking "nonfarm".

(9) Paragraphs (1) and (2) of section 1925(a), as redesignated by section (4111(a)) of this title, are amended to read as follows: 42 USC 1396s.

"(1) AFDC.—(A) Section 402(a)(32) of this Act (relating to individuals who are deemed recipients of aid but for whom a payment is not made).

"(B) Section 402(a)(37) of this Act (relating to individuals who lose AFDC eligibility due to increased earnings).

"(C) Section 406(h) of this Act (relating to individuals who lose AFDC eligibility due to increased collection of child or spousal support).

"(D) Section 414(g) of this Act (relating to certain individuals participating in work supplementation programs).

"(2) SSI.—(A) Section 1611(e) of this Act (relating to treatment of couples sharing an accommodation in a facility).

"(B) Section 1619 of this Act (relating to benefits for individuals who perform substantial gainful activity despite severe medical impairment).

"(C) Section 1634(b) of this Act (relating to preservation of benefit status for disabled widows and widowers who lost SSI benefits because of 1983 changes in actuarial reduction formula). 101 STAT. 1330-160

"(D) Section 1634(c) of this Act (relating to individuals who lose eligibility for SSI benefits due to entitlement to child's insurance benefits under section 202(d) of this Act).".

(10) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986, section 9411(a)(2)(B) of such Act is amended by inserting "such" after "need for". Effective date. 42 USC 1396n.

Subtitle C—Nursing Home Reform

PART 1—MEDICARE PROGRAM

SEC. 4201. REQUIREMENTS FOR SKILLED NURSING FACILITIES.

(a) SPECIFICATION OF FACILITY REQUIREMENTS.—Title XVIII of the Social Security Act is amended—

(1) by amending subsection (j) of section 1861 (42 U.S.C. 1395x) to read as follows:

"Skilled Nursing Facility

"(j) The term 'skilled nursing facility' has the meaning given such term in section 1819(a).";

(2) by adding at the end of section 1864 (42 U.S.C. 1395aa) the following new subsection:

"(d) The Secretary may not enter an agreement under this section with a State with respect to determining whether an institution Contracts.

therein is a skilled nursing facility unless the State meets the requirements specified in section 1819(e)."; and

(3) by adding at the end of part A the following new section:

"REQUIREMENTS FOR, AND ASSURING QUALITY OF CARE IN, SKILLED NURSING FACILITIES

42 USC 1395i-3.

"SEC. 1819. (a) SKILLED NURSING FACILITY DEFINED.—In this title, the term 'skilled nursing facility' means an institution (or a distinct part of an institution) which—

"(1) is primarily engaged in providing to residents—

"(A) skilled nursing care and related services for residents who require medical or nursing care, or

"(B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons,

and is not primarily for the care and treatment of mental diseases;

"(2) has in effect a transfer agreement (meeting the requirements of section 1861(l)) with one or more hospitals having agreements in effect under section 1866; and

"(3) meets the requirements for a skilled nursing facility described in subsections (b), (c), and (d) of this section.

"(b) REQUIREMENTS RELATING TO PROVISION OF SERVICES.—

"(1) QUALITY OF LIFE.—

"(A) IN GENERAL.—A skilled nursing facility must care for its residents in such a manner and in such an environment as will promote maintenance or enhancement of the quality of life of each resident.

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"(B) QUALITY ASSESSMENT AND ASSURANCE.—A skilled nursing facility must maintain a quality assessment and assurance committee, consisting of the director of nursing services, a physician designated by the facility, and at least 3 other members of the facility's staff, which (i) meets at least quarterly to identify issues with respect to which quality assessment and assurance activities are necessary and (ii) develops and implements appropriate plans of action to correct identified quality deficiencies.

"(2) SCOPE OF SERVICES AND ACTIVITIES UNDER PLAN OF CARE.—A skilled nursing facility must provide services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, in accordance with a written plan of care which—

"(A) describes the medical, nursing, and psychosocial needs of the resident and how such needs will be met;

"(B) is initially prepared, with the participation to the extent practicable of the resident or the resident's family or legal representative, by a team which includes the resident's attending physician and a registered professional nurse with responsibility for the resident; and

"(C) is periodically reviewed and revised by such team after each assessment under paragraph (3).

"(3) RESIDENTS' ASSESSMENT.—

"(A) REQUIREMENT.—A skilled nursing facility must conduct a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity, which assessment—

"(i) describes the resident's capability to perform daily life functions and significant impairments in functional capacity;

"(ii) is based on a uniform minimum data set specified by the Secretary under subsection (f)(6)(A);

"(iii) in the case of a resident eligible for benefits under title XIX, uses an instrument which is specified by the State under subsection (e)(5); and

"(iv) in the case of a resident eligible for benefits under part A of this title, includes the identification of medical problems.

"(B) CERTIFICATION.—

"(i) IN GENERAL.—Each such assessment must be conducted or coordinated (with the appropriate participation of health professionals) by a registered professional nurse who signs and certifies the completion of the assessment. Each individual who completes a portion of such an assessment shall sign and certify as to the accuracy of that portion of the assessment.

"(ii) PENALTY FOR FALSIFICATION.—

"(I) An individual who willfully and knowingly certifies under clause (i) a material and false statement in a resident assessment is subject to a civil money penalty of not more than $1,000 with respect to each assessment.

"(II) An individual who willfully and knowingly causes another individual to certify under clause (i) a material and false statement in a resident assess- 101 STAT. 1330-162
ment is subject to a civil money penalty of not more than $5,000 with respect to each assessment.

"(III) The Secretary shall provide for imposition of civil money penalties under this clause in a manner similar to that for the imposition of civil money penalties under section 1128A.

"(iii) USE OF INDEPENDENT ASSESSORS.—If a State determines, under a survey under subsection (g) or otherwise, that there has been a knowing and willful certification of false assessments under this paragraph, the State may require (for a period specified by the State) that resident assessments under this paragraph be conducted and certified by individuals who are independent of the facility and who are approved by the State.

"(C) FREQUENCY.—

"(i) IN GENERAL.—Such an assessment must be conducted—

"(I) promptly upon (but no later than 4 days after the date of) admission for each individual admitted on or after October 1, 1990, and by not later than October 1, 1990, for each resident of the facility on that date;

"(II) promptly after a significant change in the resident's physical or mental condition; and

"(III) in no case less often than once every 12 months.

"(ii) RESIDENT REVIEW.—The skilled nursing facility must examine each resident no less frequently than once every 3 months and, as appropriate, revise the resident's assessment to assure the continuing accuracy of the assessment.

"(D) USE.—The results of such an assessment shall be used in developing, reviewing, and revising the resident's plan of care under paragraph (2).

"(E) COORDINATION.—Such assessments shall be coordinated with any State-required preadmission screening program to the maximum extent practicable in order to avoid duplicative testing and effort.

"(4) PROVISION OF SERVICES AND ACTIVITIES.—

"(A) IN GENERAL.—To the extent needed to fulfill all plans of care described in paragraph (2), a skilled nursing facility must provide, directly or under arrangements (or, with respect to dental services, under agreements) with others for the provision of—

"(i) nursing services and specialized rehabilitative

services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident;

"(ii) medically-related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident;

"(iii) pharmaceutical services (including procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals) to meet the needs of each resident;

"(iv) dietary services that assure that the meals meet the daily nutritional and special dietary needs of each resident;

"(v) an on-going program, directed by a qualified professional, of activities designed to meet the interests and the physical, mental, and psychosocial well-being of each resident; and

"(vi) routine and emergency dental services to meet the needs of each resident.

The services provided or arranged by the facility must meet professional standards of quality. Nothing in clause (vi) shall be construed as requiring a facility to provide or arrange for dental services described in that clause without additional charge.

"(B) QUALIFIED PERSONS PROVIDING SERVICES.—Services described in clauses (i), (ii), (iii), (iv), and (vi) of subparagraph (A) must be provided by qualified persons in accordance with each resident's written plan of care.

"(C) REQUIRED NURSING CARE.—

"(i) IN GENERAL.—Except as provided in clause (ii), a skilled nursing facility must provide 24-hour nursing service which is sufficient to meet nursing needs of its residents and must employ the services of a registered professional nurse at least during the day tour of duty (of at least 8 hours a day) 7 days a week.

"(ii) EXCEPTION.—To the extent that clause (i) may be deemed to require that a skilled nursing facility engage the services of a registered professional nurse for more than 40 hours a week, the Secretary is authorized to waive such requirement if the Secretary finds that—

"(I) the facility is located in a rural area and the supply of skilled nursing facility services in such area is not sufficient to meet the needs of individuals residing therein,

"(II) the facility has one full-time registered professional nurse who is regularly on duty at such facility 40 hours a week, and

"(III) the facility either has only patients whose physicians have indicated (through physicians' orders or admission notes) that each such patient does not require the services of a registered nurse or a physician for a 48-hour period, or has made arrangements for a registered professional nurse or a physician to spend such time at such facility as may be indicated as necessary by the physician to provide necessary skilled nursing services on days when the regular full-time registered professional nurse is not on duty.

A waiver under this subparagraph shall be subject to annual renewal.

"(5) REQUIRED TRAINING OF NURSE AIDES.—

"(A) IN GENERAL.—A skilled nursing facility must not use (on a full-time, temporary, per diem, or other basis) any individual, who is not a licensed health professional (as defined in subparagraph (E)), as a nurse aide in the facility on or after October 1, 1989, (or January 1, 1990, in the case of an individual used by the facility as a nurse aide before

July 1, 1989) for more than 4 months unless the individual— 101 STAT. 1330-164

"(i) has completed a training and competency evaluation program, or a competency evaluation program, approved by the State under subsection (e)(1)(A), and

"(ii) is competent to provide such services.

"(B) OFFERING COMPETENCY EVALUATION PROGRAMS FOR CURRENT EMPLOYEES.—A skilled nursing facility must provide, for individuals used as a nurse aide by the facility as of July 1, 1989, for a competency evaluation program approved by the State under subsection (e)(1) and such preparation as may be necessary for the individual to complete such a program by January 1, 1990.

"(C) COMPETENCY.—The skilled nursing facility must not permit an individual, other than in a training and competency evaluation program approved by the State, to serve as a nurse aide or provide services of a type for which the individual has not demonstrated competency and must not use such an individual as a nurse aide unless the facility has inquired of the State registry established under subsection (e)(2)(A) as to information in the registry concerning the individual.

"(D) RE-TRAINING REQUIRED.—For purposes of subparagraph (A), if, since an individual's most recent completion of a training and competency evaluation program, there has been a continuous period of 24 consecutive months during none of which the individual performed nursing or nursing-related services for monetary compensation, such individual shall complete a new training and competency evaluation program.

"(E) REGULAR IN-SERVICE EDUCATION.—The skilled nursing facility must provide such regular performance review and regular in-service education as assures that individuals used as nurse aides are competent to perform services as nurse aides, including training for individuals providing nursing and nursing-related services to residents with cognitive impairments.

"(F) NURSE AIDE DEFINED.—In this paragraph, the term 'nurse aide' means any individual providing nursing or nursing-related services to residents in a skilled nursing facility, but does not include an individual—

"(i) who is a licensed health professional (as defined in subparagraph (G)), or

"(ii) who volunteers to provide such services without monetary compensation.

"(G) LICENSED HEALTH PROFESSIONAL DEFINED.—In this paragraph, the term 'licensed health professional' means a physician, physician assistant, nurse practitioner, physical, speech, or occupational therapist, registered professional nurse, licensed practical nurse, or licensed or certified social worker.

"(6) PHYSICIAN SUPERVISION AND CLINICAL RECORDS.—A skilled nursing facility must—

"(A) require that the medical care of every resident be provided under the supervision of a physician;

"(B) provide for having a physician available to furnish necessary medical care in case of emergency; and 101 STAT. 1330-165

"(C) maintain clinical records on all residents, which records include the plans of care (described in paragraph (2)) and the residents' assessments (described in paragraph (3)).

"(7) REQUIRED SOCIAL SERVICES.—In the case of a skilled nursing facility with more than 120 beds, the facility must have at least one social worker (with at least a bachelor's degree in social work or similar professional qualifications) employed full-time to provide or assure the provision of social services.

"(c) REQUIREMENTS RELATING TO RESIDENTS' RIGHTS.—

"(1) GENERAL RIGHTS.—

"(A) SPECIFIED RIGHTS.—A skilled nursing facility must protect and promote the rights of each resident, including each of the following rights:

"(i) FREE CHOICE.—The right to choose a personal attending physician, to be fully informed in advance about care and treatment, to be fully informed in advance of any changes in care or treatment that may affect the resident's well-being, and (except with respect to a resident adjudged incompetent) to participate in planning care and treatment or changes in care and treatment.

"(ii) FREE FROM RESTRAINTS.—The right to be free from physical or mental abuse, corporal punishment, involuntary seclusion, and any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms. Restraints may only be imposed—

"(I) to ensure the physical safety of the resident or other residents, and

"(II) only upon the written order of a physician that specifies the duration and circumstances under which the restraints are to be used (except in emergency circumstances specified by the Secretary) until such an order could reasonably be obtained.

"(iii) PRIVACY.—The right to privacy with regard to accommodations, medical treatment, written and telephonic communications, visits, and meetings of family and of resident groups.

"(iv) CONFIDENTIALITY.—The right to confidentiality of personal and clinical records.

"(v) ACCOMMODATION OF NEEDS.—The right—

"(I) to reside and receive services with reasonable accommodations of individual needs and preferences, except where the health or safety of the individual or other residents would be endangered, and

"(II) to receive notice before the room or roommate of the resident in the facility is changed.

"(vi) GRIEVANCES.—The right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances and the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.

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"(vii) PARTICIPATION IN RESIDENT AND FAMILY GROUPS.—The right of the resident to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility.

[57] "(viii) PARTICIPATION IN OTHER ACTIVITIES.—The right of the resident to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

[58] "(ix) EXAMINATION OF SURVEY RESULTS.—The right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Secretary or a State with respect to the facility and any plan of correction in effect with respect to the facility.

[59] "(x) OTHER RIGHTS.—Any other right established by the Secretary.

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[57] Copy read " "(ix)".
[58] Copy read " "(x)".
[59] Copy read " "(xi)".

Clause (iii) shall not be construed as requiring the provision of a private room.

"(B) NOTICE OF RIGHTS AND SERVICES.—A skilled nursing facility must—

"(i) inform each resident, orally and in writing at the time of admission to the facility, of the resident's legal rights during the stay at the facility;

"(ii) make available to each resident, upon reasonable request, a written statement of such rights (which statement is updated upon changes in such rights); and

"(iii) inform each other resident, in writing before or at the time of admission and periodically during the resident's stay, of services available in the facility and of related charges for such services, including any charges for services not covered under this title or by the facility's basic per diem charge.

The written description of legal rights under this subparagraph shall include a description of the protection of personal funds under paragraph (6) and a statement that a resident may file a complaint with a State survey and certification agency respecting resident abuse and neglect and misappropriation of resident property in the facility.

"(C) RIGHTS OF INCOMPETENT RESIDENTS.—In the case of a resident adjudged incompetent under the laws of a State, the rights of the resident under this title shall devolve upon, and, to the extent judged necessary by a court of competent jurisdiction, be exercised by, the person appointed under State law to act on the resident's behalf.

"(2) TRANSFER AND DISCHARGE RIGHTS.—

"(A) IN GENERAL.—A skilled nursing facility must permit each resident to remain in the facility and must not transfer or discharge the resident from the facility unless—

"(i) the transfer or discharge is necessary to meet the resident's welfare and the resident's welfare cannot be met in the facility;

"(ii) the transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;

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"(iii) the safety of individuals in the facility is endangered;

"(iv) the health of individuals in the facility would otherwise be endangered;

"(v) the resident has failed, after reasonable and appropriate notice, to pay (or to have paid under this title or title XIX on the resident's behalf) an allowable charge imposed by the facility for an item or service requested by the resident and for which a charge may be imposed consistent with this title and title XIX; or

"(vi) the facility ceases to operate.

In each of the cases described in clauses (i) through (v), the basis for the transfer or discharge must be documented in the resident's clinical record. In the cases described in clauses (i) and (ii), the documentation must be made by the resident's physician, and in the cases described in clauses (iii) and (iv) the documentation must be made by a physician.

"(B) PRE-TRANSFER AND PRE-DISCHARGE NOTICE.—

"(i) IN GENERAL.—Before effecting a transfer or discharge of a resident, a skilled nursing facility must—

"(I) notify the resident (and, if known, a family member of the resident or legal representative) of the transfer or discharge and the reasons therefor,

"(II) record the reasons in the resident's clinical record (including any documentation required under subparagraph (A)), and

"(III) include in the notice the items described in clause (iii).

"(ii) TIMING OF NOTICE.—The notice under clause (i)(I) must be made at least 30 days in advance of the resident's transfer or discharge except—

"(I) in a case described in clause (iii) or (iv) of subparagraph (A);

"(II) in a case described in clause (ii) of subparagraph (A), where the resident's health improves sufficiently to allow a more immediate transfer or discharge;

"(III) in a case described in clause (i) of subparagraph (A), where a more immediate transfer or discharge is necessitated by the resident's urgent medical needs; or

"(IV) in a case where a resident has not resided in the facility for 30 days.

In the case of such exceptions, notice must be given as many days before the date of the transfer or discharge as is practicable.

"(iii) ITEMS INCLUDED IN NOTICE.—Each notice under clause (i) must include—

"(I) for transfers or discharges effected on or after October 1, 1990, notice of the resident's right to appeal the transfer or discharge under the State process established under subsection (e)(3); and

"(II) the name, mailing address, and telephone number of the State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965).

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"(C) ORIENTATION.—A skilled nursing facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

"(3) ACCESS AND VISITATION RIGHTS.—A skilled nursing facility must—

"(A) permit immediate access to any resident by any representative of the Secretary, by any representative of the State, by an ombudsman described in paragraph (2)(B)(iii)(II), or by the resident's individual physician;

"(B) permit immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives of the resident;

"(C) permit immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident;

"(D) permit reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time; and

"(E) permit representatives of the State ombudsman (described in paragraph (2)(B)(iii)(II)), with the permission of the resident (or the resident's legal representative) and consistent with State law, to examine a resident's clinical records.

"(4) EQUAL ACCESS TO QUALITY CARE.—A skilled nursing facility must establish and maintain identical policies and practices regarding transfer, discharge, and covered services under this title for all individuals regardless of source of payment.

"(5) ADMISSIONS POLICY.—

"(A) ADMISSIONS.—With respect to admissions practices, a skilled nursing facility must—

"(i)(I) not require individuals applying to reside or residing in the facility to waive their rights to benefits under this title or under a State plan under title XIX,

(II) not require oral or written assurance that such individuals are not eligible for, or will not apply for, benefits under this title or such a State plan, and (III) prominently display in the facility and provide to such individuals written information about how to apply for and use such benefits and how to receive refunds for previous payments covered by such benefits; and

"(ii) not require a third party guarantee of payment to the facility as a condition of admission (or expedited admission) to, or continued stay in, the facility.

"(B) CONSTRUCTION.—

"(i) NO PREEMPTION OF STRICTER STANDARDS.—Subparagraph (A) shall not be construed as preventing States or political subdivisions therein from prohibiting, under State or local law, the discrimination against individuals who are entitled to medical assistance under this title with respect to admissions practices of skilled nursing facilities.

"(ii) CONTRACTS WITH LEGAL REPRESENTATIVES.—Subparagraph (A)(ii) shall not be construed as preventing a facility from requiring an individual, who has legal access to a resident's income or resources available to pay for care in the facility, to sign a contract (without incurring personal financial liability) to provide payment from the resident's income or resources for such care.

"(6) PROTECTION OF RESIDENT FUNDS.—

"(A) IN GENERAL.—The skilled nursing facility—

"(i) may not require residents to deposit their personal funds with the facility, and

"(ii) once the facility accepts the written authorization of the resident, must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this paragraph.

"(B) MANAGEMENT OF PERSONAL FUNDS.—Upon a facility's acceptance of written authorization of a resident under subparagraph (A)(ii), the facility must manage and account for the personal funds of the resident deposited with the facility as follows:

"(i) DEPOSIT.—The facility must deposit any amount of personal funds in excess of $50 with respect to a resident in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts and credits all interest earned on such separate account to such account. With respect to any other personal funds, the facility must maintain such funds in a non-interest bearing account or petty cash fund.

"(ii) ACCOUNTING AND RECORDS.—The facility must assure a full and complete separate accounting of each such resident's personal funds, maintain a written record of all financial transactions involving the personal funds of a resident deposited with the facility, and afford the resident (or a legal representative of the resident) reasonable access to such record.

"(iii) CONVEYANCE UPON DEATH.—Upon the death of a resident with such an account, the facility must convey promptly the resident's personal funds (and a final accounting of such funds) to the individual administering the resident's estate.

"(C) ASSURANCE OF FINANCIAL SECURITY.—The facility must purchase a surety bond, or otherwise provide assurance satisfactory to the Secretary, to assure the security of all personal funds of residents deposited with the facility.

"(D) LIMITATION ON CHARGES TO PERSONAL FUNDS.—The facility may not impose a charge against the personal funds

of a resident for any item or service for which payment is made under this title or title XIX.

"(d) REQUIREMENTS RELATING TO ADMINISTRATION AND OTHER MATTERS.—

"(1) ADMINISTRATION.—

"(A) IN GENERAL.—A skilled nursing facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical mental, and psychosocial well-being of each resident (consistent with requirements established under subsection (f)(5)).

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"(B) REQUIRED NOTICES.—If a change occurs in—

"(i) the persons with an ownership or control interest (as defined in section 1124(a)(3)) in the facility,

"(ii) the persons who are officers, directors, agents, or managing employees (as defined in section 1126(b)) of the facility,

"(iii) the corporation, association, or other company responsible for the management of the facility, or

"(iv) the individual who is the administrator or director of nursing of the facility,

the skilled nursing facility must provide notice to the State agency responsible for the licensing of the facility, at the time of the change, of the change and of the identity of each new person, company, or individual described in the respective clause.

"(C) SKILLED NURSING FACILITY ADMINISTRATOR.—The administrator of a skilled nursing facility must meet standards established by the Secretary under subsection (f)(4).

"(2) LICENSING AND LIFE SAFETY CODE.—

"(A) LICENSING.—A skilled nursing facility must be licensed under applicable State and local law.

"(B) LIFE SAFETY CODE.—A skilled nursing facility must meet such provisions of such edition (as specified by the Secretary in regulation) of the Life Safety Code of the National Fire Protection Association as are applicable to nursing homes; except that—

"(i) the Secretary may waive, for such periods as he deems appropriate, specific provisions of such Code which if rigidly applied would result in unreasonable hardship upon a facility, but only if such waiver would not adversely affect the health and safety of residents or personnel, and

"(ii) the provisions of such Code shall not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects residents of and personnel in skilled nursing facilities.

"(3) SANITARY AND INFECTION CONTROL AND PHYSICAL ENVIRONMENT.—A skilled nursing facility must—

"(A) establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment in which residents reside and to help prevent the development and transmission of disease and infection, and

"(B) be designed, constructed, equipped, and maintained in a manner to protect the health and safety of residents, personnel, and the general public.

"(4) MISCELLANEOUS.—

"(A) COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND PROFESSIONAL STANDARDS.—A skilled nursing facility must operate and provide services in compliance with all applicable Federal, State, and local laws and regulations

(including the requirements of section[59a] 1124) and with accepted professional standards and principles which apply to professionals providing services in such a facility. 101 STAT. 1330-171

"(B) OTHER.—A skilled nursing facility must meet such other requirements relating to the health, safety, and well-being of residents or relating to the physical facilities thereof as the Secretary may find necessary.

"(e) STATE REQUIREMENTS RELATING TO SKILLED NURSING FACILITY REQUIREMENTS.—The requirements, referred to in section 1864(d), with respect to a State are as follows:

"(1) SPECIFICATION AND REVIEW OF NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS AND OF NURSE AIDE COMPETENCY EVALUATION PROGRAMS.—The State must—

"(A) by not later than March 1, 1989, specify those training and competency evaluation programs, and those competency evaluation programs, that the State approves for purposes of subsection (b)(5) and that meet the requirements established under clause (i) or (ii) of subsection (f)(2)(A), and

"(B) by not later than March 1, 1990, provide for the review and reapproval of such programs, at a frequency and using a methodology consistent with the requirements established under subsection (f)(2)(A)(iii).

The failure of the Secretary to establish requirements under subsection (f)(2) shall not relieve any State of its responsibility under this paragraph.

"(2) NURSE AIDE REGISTRY.—

"(A) IN GENERAL.—By not later than March 1, 1989, the State shall establish and maintain a registry of all individuals who have satisfactorily completed a nurse aide training and competency evaluation program, or a nurse aide competency evaluation program, approved under paragraph (1) in the State.

"(B) INFORMATION IN REGISTRY.—The registry under subparagraph (A) shall provide (in accordance with regulations of the Secretary) for the inclusion of specific documented findings by a State under subsection (g)(1)(C) of resident neglect or abuse or misappropriation of resident property involving an individual listed in the registry, as well as any brief statement of the individual disputing the findings. In the case of inquiries to the registry concerning an individual listed in the registry, any information disclosed concerning such a finding shall also include disclosure of any such statement in the registry relating to the finding or a clear and accurate summary of such a statement.

"(3) STATE APPEALS PROCESS FOR TRANSFERS.—The State, for transfers from skilled nursing facilities effected on or after October 1, 1990, must provide for a fair mechanism for hearing appeals on transfers of residents of such facilities. Such mechanism must meet the guidelines established by the Secretary under subsection (f)(3); but the failure of the Secretary to establish such guidelines shall not relieve any State of its responsibility to provide for such a fair mechanism.

"(4) SKILLED NURSING FACILITY ADMINISTRATOR STANDARDS.—By not later than January 1, 1990, the State must have implemented and enforced the skilled nursing facility administrator standards developed under subsection (f)(4) respecting the qualification of administrators of skilled nursing facilities. 101 STAT. 1330-172

"(5) SPECIFICATION OF RESIDENT ASSESSMENT INSTRUMENT.—Effective July 1, 1989, the State shall specify the instrument to be used by nursing facilities in the State in complying with the requirement of subsection (b)(3)(A)(iii). Such instrument shall be—

[59a] Copy read "sections".

"(A) one of the instruments designated under subsection (f)(6)(B), or

"(B) an instrument which the Secretary has approved as being consistent with the minimum data set of core elements, common definitions, and utilization guidelines specified by the Secretary under subsection (f)(6)(A).

"(f) RESPONSIBILITIES OF SECRETARY RELATING TO SKILLED NURSING FACILITY REQUIREMENTS.—

"(1) GENERAL RESPONSIBILITY.—It is the duty and responsibility of the Secretary to assure that requirements which govern the provision of care in skilled nursing facilities under this title, and the enforcement of such requirements, are adequate to protect the health, safety, welfare, and rights of residents and to promote the effective and efficient use of public moneys.

"(2) REQUIREMENTS FOR NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS AND FOR NURSE AIDE COMPETENCY EVALUATION PROGRAMS.—

"(A) IN GENERAL.—For purposes of subsections (b)(5) and (e)(1)(A), the Secretary shall establish, by not later than September 1, 1988—

"(i) requirements for the approval of nurse aide training and competency evaluation programs, including requirements relating to (I) the areas to be covered in such a program (including at least basic nursing skills, personal care skills, cognitive, behavioral and social care, basic restorative services, and residents' rights), content of the curriculum, (II) minimum hours of initial and ongoing training and retraining (including not less than 75 hours in the case of initial training), (III) qualifications of instructors, and (IV) procedures for determination of competency;

"(ii) requirements for the approval of nurse aide competency evaluation programs, including requirement relating to the areas to be covered in such a program, including at least basic nursing skills, personal care skills, cognitive, behavioral and social care, basic restorative services, residents' rights, and procedures for determination of competency; and

"(iii) requirements respecting the minimum frequency and methodology to be used by a State in reviewing such programs' compliance with the requirements for such programs.

"(B) APPROVAL OF CERTAIN PROGRAMS.—Such requirements—

"(i) may permit approval of programs offered by or in facilities, as well as outside facilities (including employee organizations), and of programs in effect on the date of the enactment of this section;

"(ii) shall permit a State to find that an individual who has completed (before July 1, 1989) a nurse aide training and competency evaluation program shall be deemed to have completed such a program approved under subsection (b)(5) if the State determines that, at the time the program was offered, the program met the requirements for approval under such paragraph; and

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"(iii) shall prohibit approval of such a program—

"(I) offered by or in a skilled nursing facility which has been determined to be out of compliance with the requirements of subsection (b), (c), or (d), within the previous 2 years, or

"(II) offered by or in a skilled nursing facility unless the State makes the determination, upon an individual's completion of the program, that the individual is competent to provide nursing and nursing-related services in skilled nursing facilities.

A State may not delegate its responsibility under clause (iii)(II) to the skilled nursing facility.

"(3) FEDERAL GUIDELINES FOR STATE APPEALS PROCESS FOR TRANSFERS.—For purposes of subsections (c)(2)(B)(iii)(I) and (e)(3), by not later than October 1, 1989, the Secretary shall establish guidelines for minimum standards which State appeals processes under subsection (e)(3) must meet to provide a fair mechanism for hearing appeals on transfers of residents from skilled nursing facilities.

"(4) SECRETARIAL STANDARDS FOR QUALIFICATION OF ADMINISTRATORS.—For purposes of subsections (d)(1)(C) and (e)(4), the Secretary shall develop, by not later than March 1, 1989, standards to be applied in assuring the qualifications of administrators of skilled nursing facilities.

"(5) CRITERIA FOR ADMINISTRATION.—The Secretary shall establish criteria for assessing a skilled nursing facility's compliance with the requirement of subsection (d)(1) with respect to—

"(A) its governing body and management,

"(B) agreements with hospitals regarding transfers of residents to and from the hospitals and to and from other skilled nursing facilities,

"(C) disaster preparedness,

"(D) direction of medical care by a physician,

"(E) laboratory and radiological services,

"(F) clinical records, and

"(G) resident and advocate participation.

"(6) SPECIFICATION OF RESIDENT ASSESSMENT DATA SET AND INSTRUMENTS.—The Secretary shall—

"(A) not later than July 1, 1989, specify a minimum data set of core elements and common definitions for use by nursing facilities in conducting the assessments required under subsection (b)(3), and establish guidelines for utilization of the data set; and

"(B) by not later than October 1, 1990, designate one or more instruments which are consistent with the specification made under subparagraph (A) and which a State may specify under subsection (e)(5)(A) for use by nursing facilities in complying with the requirements of subsection (b)(3)(A)(iii).

"(7) LIST OF ITEMS AND SERVICES FURNISHED IN SKILLED NURSING FACILITIES NOT CHARGEABLE TO THE PERSONAL FUNDS OF A RESIDENT.— 101 STAT. 1330-174

"(A) REGULATIONS REQUIRED.—Pursuant to the requirement of section 21(b) of the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977, the Secretary shall issue regulations, on or before the first day of the seventh month to begin after the date of enactment of this section, that define those costs which may be charged to the personal funds of patients in skilled nursing facilities who are individuals receiving benefits under this part and those costs which are to be included in the reasonable cost (or other payment amount) under this title for extended care services.

"(B) RULE IF FAILURE TO PUBLISH REGULATIONS.—If the Secretary does not issue the regulations under subparagraph (A) on or before the date required in such subparagraph, in the case of a resident of a skilled nursing facility who is eligible to receive benefits under this part, the costs which may not be charged to the personal funds of such resident (and for which payment is considered to be made under this title) shall not include, at a minimum, the costs for routine personal hygiene items and services furnished by the facility.".

(b) COSTS OF MEETING REQUIREMENTS.—

42 USC 1395x.

(1) UNDER REASONABLE COST.—Section 1861(v)(1)(E) of such Act (42 U.S.C. 1395x(v)(1)(E)) is amended by adding at the end the following new sentence: "Notwithstanding the previous sentence, such regulations with respect to skilled nursing facilities shall take into account (in a manner consistent with subparagraph (A) and based on patient-days of services furnished) the costs of such facilities complying with the requirements of subsections (b), (c), and (d) of section 1819 (including the costs of conducting nurse aide training and competency evaluation programs and competency evaluation programs).".

(2) ADJUSTMENT IN PROSPECTIVE PAYMENTS.—Section 1888(d) of such Act (42 U.S.C. 1395yy(d)) is amended by adding at the end the following new paragraph:

"(7) In computing the rates of payment to be made under this subsection, there shall be taken into account the costs described in the last sentence of section 1861(v)(1)(E) (relating to compliance with nursing facility requirements and of conducting nurse aide training and competency evaluation programs and competency evaluation programs).".

Reports.
42 USC 1395i-3 note.

(c) EVALUATION.—The Secretary of Health and Human Services shall evaluate, and report to Congress by not later than January 1, 1992, on the implementation of the resident assessment process for residents of skilled nursing facilities under the amendments made by this section.

(d) CONFORMING AMENDMENT.—Section 1861(a)(2) of the Social Security Act (42 U.S.C. 1395x(a)(2)) is amended by striking "skilled nursing facility" and inserting "facility described in section 1919(a)(2) or subsection (y)(1)".

SEC. 4202. SURVEY AND CERTIFICATION PROCESS.

(a) STATE REQUIREMENT FOR PROCESS.—Title XVIII of the Social Security Act is amended—

(1) in section 1864(d) (42 U.S.C. 1395aa(d)), as added by section 4201(a)(2) of this Act, by inserting before the period "and section 1819(g)", and

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(2) in section 1819, as added by section 4201(a)(3) of this Act, by adding at the end the following new subsection:

"(g) SURVEY AND CERTIFICATION PROCESS.—

"(1) STATE AND FEDERAL RESPONSIBILITY.—

"(A) IN GENERAL.—Pursuant to an agreement under section 1864, each State shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of skilled nursing facilities (other than facilities of the State) with the requirements of subsections (b), (c), and (d). The Secretary shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of State skilled nursing facilities with the requirements of such subsections.

"(B) EDUCATIONAL PROGRAM.—Each State shall conduct periodic educational programs for the staff and residents (and their representatives) of skilled nursing facilities in order to present current regulations, procedures, and policies under this section.

"(C) INVESTIGATION OF ALLEGATIONS OF RESIDENT NEGLECT AND ABUSE AND MISAPPROPRIATION OF RESIDENT PROPERTY.—The State shall provide, through the agency responsible for surveys and certification of nursing facilities under this subsection, for a process for the receipt, review, and investigation of allegations of neglect and abuse and misappropriation of resident property by a nurse aide of a resident in a nursing facility. If the State finds, after notice to the nurse aide involved and a reasonable opportunity for a hearing for the nurse aide to rebut allegations, that a nurse aide whose name is contained in a nurse aide registry has

neglected or abused a resident or misappropriated resident property in a facility, the State shall notify the nurse aide and the registry of such finding.

"(D) CONSTRUCTION.—The failure of the Secretary to establish standards under subsection (f) shall not relieve a State of its responsibility under this subsection.

"(2) SURVEYS.—

"(A) STANDARD SURVEY.—

"(i) IN GENERAL.—Each skilled nursing facility shall be subject to a standard survey, to be conducted without any prior notice to the facility. Any individual who notifies (or causes to be notified) a skilled nursing facility of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of not to exceed $2,000. The Secretary shall provide for imposition of civil money penalties under this clause in a manner similar to that for the imposition of civil money penalties under section 1128A. The Secretary shall review each State's procedures for the scheduling and conduct of standard surveys to assure that the State has taken all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

"(ii) CONTENTS.—Each standard survey shall include, for a case-mix stratified sample of residents—

"(I) a survey of the quality of care furnished, as measured by indicators of medical, nursing, and rehabilitative care, dietary and nutrition services, activities and social participation, and sanitation, infection control, and the physical environment, 101 STAT. 1330-176

"(II) written plans of care provided under subsection (b)(2) and an audit of the residents' assessments under subsection (b)(3) to determine the accuracy of such assessments and the adequacy of such plans of care, and

"(III) a review of compliance with residents' rights under subsection (c).

"(iii) FREQUENCY.—

"(I) IN GENERAL.—Each skilled nursing facility shall be subject to a standard survey not later than 15 months after the date of the previous standard survey conducted under this subparagraph. The Statewide average interval between standard surveys of skilled nursing facilities under this subsection shall not exceed 12 months.

"(II) SPECIAL SURVEYS.—If not otherwise conducted under subclause (I), a standard survey (or an abbreviated standard survey) may be conducted within 2 months of any change of ownership, administration, management of a skilled nursing facility, or the director of nursing in order to determine whether the change has resulted in any decline in the quality of care furnished in the facility.

"(B) EXTENDED SURVEYS.—

"(i) IN GENERAL.—Each skilled nursing facility which is found, under a standard survey, to have provided substandard quality of care shall be subject to an extended survey. Any other facility may, at the Secretary's or State's discretion, be subject to such an extended survey (or a partial extended survey).

"(ii) TIMING.—The extended survey shall be conducted immediately after the standard survey (or, if not practical, not later than 2 weeks after the date of completion of the standard survey).

"(iii) CONTENTS.—In such an extended survey, the survey team shall review and identify the policies and procedures which produced such substandard quality of care and shall determine whether the facility has complied with all the requirements described in subsections (b), (c), and (d). Such review shall include an expansion of the size of the sample of residents' assessments reviewed and a review of the staffing, of in-service training, and, if appropriate, of contracts with consultants.

Contracts.

"(iv) CONSTRUCTION.—Nothing in this paragraph shall be construed as requiring an extended or partial extended survey as a prerequisite to imposing a sanction against a facility under subsection (h) on the basis of findings in a standard survey.

"(C) SURVEY PROTOCOL.—Standard and extended surveys shall be conducted—

"(i) based upon a protocol which the Secretary has developed, tested, and validated by not later than October 1, 1990, and

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"(ii) by individuals, of a survey team, who meet such minimum qualifications as the Secretary establishes by not later than such date.

The failure of the Secretary to develop, test, or validate such protocols or to establish such minimum qualifications shall not relieve any State of its responsibility (or the Secretary of the Secretary's responsibility) to conduct surveys under this subsection.

"(D) CONSISTENCY OF SURVEYS.—Each State and the Secretary shall implement programs to measure and reduce inconsistency in the application of survey results among surveyors.

"(E) SURVEY TEAMS.—

"(i) IN GENERAL.—Surveys under this subsection shall be conducted by a multidisciplinary team of professionals (including a registered professional nurse).

"(ii) PROHIBITION OF CONFLICTS OF INTEREST.—A State may not use as a member of a survey team under this subsection an individual who is serving (or has served within the previous 2 years) as a member of the staff of, or as a consultant to, the facility surveyed respecting compliance with the requirements of subsections (b), (c), and (d), or who has a personal or familial financial interest in the facility being surveyed.

"(iii) TRAINING.—The Secretary shall provide for the comprehensive training of State and Federal surveyors in the conduct of standard and extended surveys under this subsection, including the auditing of resident assessments and plans of care. No individual shall serve as a member of a survey team unless the individual has successfully completed a training and testing program in survey and certification techniques that has been approved by the Secretary.

"(3) VALIDATION SURVEYS.—

"(A) IN GENERAL.—The Secretary shall conduct onsite surveys of a representative sample of skilled nursing facilities in each State, within 2 months of the date of surveys conducted under paragraph (2) by the State, in a sufficient number to allow inferences about the adequacies of each State's surveys conducted under paragraph (2). In conducting such surveys, the Secretary shall use the same survey protocols as the State is required to use under paragraph (2). If the State has determined that an individual skilled nursing facility meets the requirements of subsections (b), (c), and (d), but the Secretary determines that the facility does not meet such requirements, the Secretary's determination as to the facility's noncompliance with such

requirements is binding and supersedes that of the State survey.

"(B) SCOPE.—With respect to each State, the Secretary shall conduct surveys under subparagraph (A) each year with respect to at least 5 percent of the number of skilled nursing facilities surveyed by the State in the year, but in no case less than 5 skilled nursing facilities in the State.

"(C) REMEDIES FOR SUBSTANDARD PERFORMANCE.—If the Secretary finds, on the basis of such surveys, that a State has failed to perform surveys as required under paragraph (2) or that a State's survey and certification performance otherwise is not adequate, the Secretary shall provide for an appropriate remedy, which may include the training of survey teams in the State. 101 STAT. 1330-178

[60] "(D) SPECIAL SURVEYS OF COMPLIANCE.—Where the Secretary has reason to question the compliance of a skilled nursing facility with any of the requirements of subsections (b), (c), and (d), the Secretary may conduct a survey of the facility and, on that basis, make independent and binding determinations concerning the extent to which the skilled nursing facility meets such requirements.

"(4) INVESTIGATION OF COMPLAINTS AND MONITORING COMPLIANCE.—Each State shall maintain procedures and adequate staff to—

"(A) investigate complaints of violations of requirements by skilled nursing facilities, and

"(B) monitor, on-site, on a regular, as needed basis, a skilled nursing facility's compliance with the requirements of subsections (b), (c), and (d), if—

"(i) the facility has been found not to be in compliance with such requirements and is in the process of correcting deficiencies to achieve such compliance;

"(ii) the facility was previously found not to be in compliance with such requirements, has corrected deficiencies to achieve such compliance, and verification of continued compliance is indicated; or

"(iii) the State has reason to question the compliance of the facility with such requirements.

A State may maintain and utilize a specialized team (including an attorney, an auditor, and appropriate health care professionals) for the purpose of identifying, surveying, gathering and preserving evidence, and carrying out appropriate enforcement actions against chronically substandard skilled nursing facilities.

"(5) DISCLOSURE OF RESULTS OF INSPECTIONS AND ACTIVITIES.—

"(A) PUBLIC INFORMATION.—Each State, and the Secretary, shall make available to the public—

"(i) information respecting all surveys and certifications made respecting skilled nursing facilities, including statements of deficiencies and plans of correction,

"(ii) copies of cost reports of such facilities filed under this title or title XIX, Reports.

"(iii) copies of statements of ownership under section 1124, and

"(iv) information disclosed under section 1126.

"(B) NOTICE TO OMBUDSMAN.—Each State shall notify the State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) of the State's findings of noncompliance with any of the requirements of subsections (b), (c), and (d), with respect to a skilled nursing facility in the State.

"(C) NOTICE TO PHYSICIANS AND SKILLED NURSING FACILITY ADMINISTRATOR LICENSING BOARD.—If a State finds that a

[60] Copy read "(C)".

101 STAT. 1330-179

skilled nursing facility has provided substandard quality of care, the State shall notify—

"(i) the attending physician of each resident with respect to which such finding is made, and

"(ii) the State board responsible for the licensing of the skilled nursing facility administrator at the facility.

"(D)[60a] ACCESS TO FRAUD CONTROL UNITS.—Each State shall provide its State medicaid fraud and abuse control unit (established under section 1903(q)) with access to all information of the State agency responsible for surveys and certifications under this subsection.".

(c) POSTING SURVEY RESULTS.—Section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended by inserting, after "readily available form and place" in the fifth sentence, the following: ", and require (in the case of skilled nursing facilities) the posting in a place readily accessible to patients (and patients' representatives),".

SEC. 4203. ENFORCEMENT PROCESS.

(a) STATE REQUIREMENT.—Title XVIII of the Social Security Act is amended—

(1) in section 1864(d) (42 U.S.C. 1395aa(d)), as added by section 4201(a)(2) and as amended by section 4202(a)(1) of this Act, by inserting before the period at the end the following: "and the establishment of remedies under sections 1819(h)(2)(B) and 1819(h)(2)(C) (relating to establishment and application of remedies)"; and

(2) by adding at the end of section 1819 of such Act, as added by section 4201(a)(3) and as amended by section 4202(a)(2), the end the following new subsection:

"(h) ENFORCEMENT PROCESS.—

"(1) IN GENERAL.—If a State finds, on the basis of a standard, extended, or partial extended survey under subsection (g)(2) or otherwise, that a skilled nursing facility no longer meets a requirement of subsection (b), (c), or (d), and further finds that the facility's deficiencies—

"(A) immediately jeopardize the health or safety of its residents, the State shall recommend to the Secretary that the Secretary take such action as described in paragraph (2)(A)(i); or

"(B) do not immediately jeopardize the health or safety of its residents, the State may recommend to the Secretary that the Secretary take such action as described in paragraph (2)(A)(ii).

If a State finds that a skilled nursing facility meets the requirements of subsections (b), (c), and (d), but, as of a previous period, did not meet such requirements, the State may recommend a civil money penalty under paragraph (2)(B)(ii) for the days in which it finds that the facility was not in compliance with such requirements.

"(2) SECRETARIAL AUTHORITY.—

"(A) IN GENERAL.—With respect to any skilled nursing facility in a State, if the Secretary finds, or pursuant to a recommendation of the State under paragraph (1) finds, that a skilled nursing facility no longer meets a requirement of subsection (b), (c), (d), or (e), and further finds that the facility's deficiencies—

101 STAT. 1330-180

"(i) immediately jeopardize the health or safety of its residents, the Secretary shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in subparagraph (B)(iii), or terminate the facility's participation under this title and may provide, in addition, for one or more of the other remedies described in subparagraph (B); or

[60a] Copy read " "(C)".

"(ii) do not immediately jeopardize the health or safety of its residents, the Secretary may impose any of the remedies described in subparagraph (B).

Nothing in this subparagraph shall be construed as restricting the remedies available to the Secretary to remedy a skilled nursing facility's deficiencies. If the Secretary finds, or pursuant to the recommendation of the State under paragraph (1) finds, that a skilled nursing facility meets such requirements but, as of a previous period, did not meet such requirements, the Secretary may provide for a civil money penalty under subparagraph (B)(ii) for the days on which he finds that the facility was not in compliance with such requirements.

"(B) SPECIFIED REMEDIES.—The Secretary may take the following actions with respect to a finding that a facility has not met an applicable requirement:

"(i) DENIAL OF PAYMENT.—The Secretary may deny any further payments under this title with respect to all individuals entitled to benefits under this title in the facility or with respect to such individuals admitted to the facility after the effective date of the finding.

"(ii) AUTHORITY WITH RESPECT TO CIVIL MONEY PENALTIES.—The Secretary may impose a civil money penalty in an amount not to exceed $10,000 for each day of noncompliance and the Secretary shall impose and collect such a penalty in the same manner as civil money penalties are imposed and collected under section 1128A.

"(iii) APPOINTMENT OF TEMPORARY MANAGEMENT.—In consultation with the State, the Secretary may appoint temporary management to oversee the operation of the facility and to assure the health and safety of the facility's residents, where there is a need for temporary management while—

"(I) there is an orderly closure of the facility, or

"(II) improvements are made in order to bring the facility into compliance with all the requirements of subsections (b), (c), and (d).

The temporary management under this clause shall not be terminated under subclause (II) until the Secretary has determined that the facility has the management capability to ensure continued compliance with all the requirements of subsections (b), (c), and (d).

The Secretary shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the remedies and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies. In addition, the Secretary may provide for other specified remedies, such as directed plans of correction.

101 STAT. 1330-181

"(C) CONTINUATION OF PAYMENTS PENDING REMEDIATION.—The Secretary may continue payments, over a period of not longer than 6 months, under this title with respect to a skilled nursing facility not in compliance with a requirement of subsection (b), (c), or (d), if—

"(i) the State survey agency finds that it is more appropriate to take alternative action to assure compliance of the facility with the requirements than to terminate the certification of the facility,

"(ii) the State has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action, and

"(iii) the facility agrees to repay to the Federal Government payments received under this subparagraph if the corrective action is not taken in accordance with the approved plan and timetable.

The Secretary shall establish guidelines for approval of corrective actions requested by States under this subparagraph.

"(D) ASSURING PROMPT COMPLIANCE.—If a skilled nursing facility has not complied with any of the requirements of subsections (b), (c), and (d), within 3 months after the date the facility is found to be out of compliance with such requirements, the Secretary shall impose the remedy described in subparagraph (B)(i) for all individuals who are admitted to the facility after such date.

"(E) REPEATED NONCOMPLIANCE.—In the case of a skilled nursing facility which, on 3 consecutive standard surveys conducted under subsection (g)(2), has been found to have provided substandard quality of care, the Secretary shall (regardless of what other remedies are provided)—

"(i) impose the remedy described in subparagraph (B)(i), and

"(ii) monitor the facility under subsection (g)(4)(B), until the facility has demonstrated, to the satisfaction of the Secretary, that it is in compliance with the requirements of subsections (b), (c), and (d), and that it will remain in compliance with such requirements.

"(3) EFFECTIVE PERIOD OF DENIAL OF PAYMENT.—A finding to deny payment under this subsection shall terminate when the Secretary finds that the facility is in substantial compliance with all the requirements of subsections (b), (c), and (d).

"(4) IMMEDIATE TERMINATION OF PARTICIPATION FOR FACILITY WHERE SECRETARY FINDS NONCOMPLIANCE AND IMMEDIATE JEOPARDY.—If the Secretary finds that a skilled nursing facility has not met a requirement of subsection (b), (c), or (d), and finds that the failure immediately jeopardizes the health or safety of its residents, the Secretary shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in paragraph (2)(B)(iii), or the Secretary shall terminate the facility's participation under this title. If the facility's participation under this title is terminated, the State shall provide for the safe and orderly transfer of the residents eligible under this title consistent with the requirements of subsection (c)(2).

101 STAT. 1330-182

"(5) CONSTRUCTION.—The remedies provided under this subsection are in addition to those otherwise available under State or Federal law and shall not be construed as limiting such other remedies, including any remedy available to an individual at common law. The remedies described in clauses (i), (iii), and (iv) of paragraph (2)(A) may be imposed during the pendency of any hearing.

"(6) SHARING OF INFORMATION.—Notwithstanding any other provision of law, all information concerning skilled nursing facilities required by this section to be filed with the Secretary or a State agency shall be made available to Federal or State employees for purposes consistent with the effective administration of programs established under this title and title XIX, including investigations by State medicaid fraud control units.".

42 USC 1395i-3 note.

SEC. 4204. EFFECTIVE DATES.

(a) NEW REQUIREMENTS AND SURVEY AND CERTIFICATION PROCESS.—Except as otherwise specifically provided in section 1819 of the Social Security Act, the amendments made by this part shall apply to extended care services furnished on or after October 1, 1990, without regard to whether regulations to implement such amendments are promulgated by such date.

(b) WAIVER OF PAPERWORK REDUCTION.—Chapter 35 of title 44, United States Code, shall not apply to information required for purposes of carrying out this part and implementing the amendments made by this part.

SEC. 4205. ANNUAL REPORT. 42 USC 1395i-3 note.

The Secretary of Health and Human Services shall report to the Congress annually on the extent to which skilled nursing facilities are complying with the requirements of subsections (b), (c), and (d) of section 1819 of the Social Security Act (as added by the amendments made by this part) and the number and type of enforcement actions taken by States and the Secretary under section 1819(h) of such Act (as added by section 4203 of this Act).

SEC. 4206. CONSTRUCTION.

Section 1819 of the Social Security Act is amended by adding at the end the following new subsection: 42 USC 1395i-3.

"(i) CONSTRUCTION.—Where requirements or obligations under this section are identical to those provided under section 1919 of this Act, the fulfillment of those requirements or obligations under section 1919 shall be considered to be the fulfillment of the corresponding requirements or obligations under this section.".

PART 2—MEDICAID PROGRAM

SEC. 4211. REQUIREMENTS FOR NURSING FACILITIES.

(a) SPECIFICATION OF FACILITY REQUIREMENTS.—Title XIX of the Social Security Act is amended—

(1) by redesignating section 1922 as section 1923, 42 USC 1396s.

(2) by redesignating section 1919 as section 1922 and by transferring and inserting such section after section 1921, and 42 USC 1396r, 1396r-3.

(3) by inserting after section 1918 the following new section: 101 STAT. 1330-183

"REQUIREMENTS FOR NURSING FACILITIES

"SEC. 1919. (a) NURSING FACILITY DEFINED.—In this title, the term 'nursing facility' means an institution (or a distinct part of an institution) which— 42 USC 1396r.

"(1) is primarily engaged in providing to residents—

"(A) skilled nursing care and related services for residents who require medical or nursing care,

"(B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons, or

"(C) on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities,

and is not primarily for the care and treatment of mental diseases;

"(2) has in effect a transfer agreement (meeting the requirements of section 1861(l)) with one or more hospitals having agreements in effect under section 1866; and

"(3) meets the requirements for a nursing facility described in subsections (b), (c), and (d) of this section.

Such term also includes any facility which is located in a State on an Indian reservation and is certified by the Secretary as meeting the requirements of paragraph (1) and subsections (b), (c), and (d).

"(b) REQUIREMENTS RELATING TO PROVISION OF SERVICES.—

"(1) QUALITY OF LIFE.—

"(A) IN GENERAL.—A nursing facility must care for its residents in such a manner and in such an environment as will promote maintenance or enhancement of the quality of life of each resident.

"(B) QUALITY ASSESSMENT AND ASSURANCE.—A nursing facility must maintain a quality assessment and assurance committee, consisting of the director of nursing services, a physician designated by the facility, and at least 3 other members of the facility's staff, which (i) meets at least quarterly to identify issues with respect to which quality assessment and assurance activities are necessary and (ii) develops and implements appropriate plans of action to correct identified quality deficiencies.

"(2) SCOPE OF SERVICES AND ACTIVITIES UNDER PLAN OF CARE.—A nursing facility must provide services and activities to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident in accordance with a written plan of care which—

"(A) describes the medical, nursing, and psychosocial needs of the resident and how such needs will be met;

"(B) is initially prepared, with the participation to the extent practicable of the resident or the resident's family or legal representative, by a team which includes the resident's attending physician and a registered professional nurse with responsibility for the resident; and

"(C) is periodically reviewed and revised by such team after each assessment under paragraph (3).

"(3) RESIDENTS' ASSESSMENT.—

"(A) REQUIREMENT.—A nursing facility must conduct a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity, which assessment—

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"(i) describes the resident's capability to perform daily life functions and significant impairments in functional capacity;

"(ii) is based on a uniform minimum data set specified by the Secretary under subsection (f)(6)(A);

"(iii) in the case of a resident eligible for benefits under this title, uses an instrument which is specified by the State under subsection (e)(5); and

"(iv) in the case of a resident eligible for benefits under part A of title XVIII, includes the identification of medical problems.

"(B) CERTIFICATION.—

"(i) IN GENERAL.—Each such assessment must be conducted or coordinated (with the appropriate participation of health professionals) by a registered professional nurse who signs and certifies the completion of the assessment. Each individual who completes a portion of such an assessment shall sign and certify as to the accuracy of that portion of the assessment.

"(ii) PENALTY FOR FALSIFICATION.—

"(I) An individual who willfully and knowingly certifies under clause (i) a material and false statement in a resident assessment is subject to a civil money penalty of not more than $1,000 with respect to each assessment.

"(II) An individual who willfully and knowingly causes another individual to certify under clause (i) a material and false statement in a resident assessment is subject to a civil money penalty of not more than $5,000 with respect to each assessment.

"(III) The Secretary shall provide for imposition of civil money penalties under this clause in a manner similar to that for the imposition of civil money penalties under section 1128A.

"(iii) USE OF INDEPENDENT ASSESSORS.—If a State determines, under a survey under subsection (g) or otherwise, that there has been a knowing and willful

certification of false assessments under this paragraph, the State may require (for a period specified by the State) that resident assessments under this paragraph be conducted and certified by individuals who are independent of the facility and who are approved by the State.

"(C) FREQUENCY.—

"(i) IN GENERAL.—Such an assessment must be conducted—

"(I) promptly upon (but no later than 4 days after the date of) admission for each individual admitted on or after October 1, 1990, and by not later than October 1, 1991, for each resident of the facility on that date;

"(II) promptly after a significant change in the resident's physical or mental condition; and

"(III) in no case less often than once every 12 months.

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"(ii) RESIDENT REVIEW.—The nursing facility must examine each resident no less frequently than once every 3 months and, as appropriate, revise the resident's assessment to assure the continuing accuracy of the assessment.

"(D) USE.—The results of such an assessment shall be used in developing, reviewing, and revising the resident's plan of care under paragraph (2).

"(E) COORDINATION.—Such assessments shall be coordinated with any State-required preadmission screening program to the maximum extent practicable in order to avoid duplicative testing and effort.

"(F) REQUIREMENTS RELATING TO PREADMISSION SCREENING FOR MENTALLY ILL AND MENTALLY RETARDED INDIVIDUALS.—A nursing facility must not admit, on or after January 1, 1989, any new resident who—

"(i) is mentally ill (as defined in subsection (e)(7)(G)(i)) unless the State mental health authority has determined (based on an independent physical and mental evaluation performed by a person or entity other than the State mental health authority) prior to admission that, because of the physical and mental condition of the individual, the individual requires the level of services provided by a nursing facility, and, if the individual requires such level of services, whether the individual requires active treatment for mental illness, or

"(ii) is mentally retarded (as defined in subsection (e)(7)(G)(ii)) unless the State mental retardation or developmental disability authority has determined prior to admission that, because of the physical and mental condition of the individual, the individual requires the level of services provided by a nursing facility, and, if the individual requires such level of services, whether the individual requires active treatment for mental retardation.

"(4) PROVISION OF SERVICES AND ACTIVITIES.—

"(A) IN GENERAL.—To the extent needed to fulfill all plans of care described in paragraph (2), a nursing facility must provide (or arrange for the provision of)—

"(i) nursing and related services and specialized rehabilitative services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident;

"(ii) medically-related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident;

"(iii) pharmaceutical services (including procedures that assure the accurate acquiring, receiving, dispens-

ing, and administering of all drugs and biologicals) to meet the needs of each resident;

"(iv) dietary services that assure that the meals meet the daily nutritional and special dietary needs of each resident;

"(v) an on-going program, directed by a qualified professional, of activities designed to meet the interests and the physical, mental, and psychosocial well-being of each resident; and

"(vi) routine dental services (to the extent covered under the State plan) and emergency dental services to meet the needs of each resident.

The services provided or arranged by the facility must meet professional standards of quality.

"(B) QUALIFIED PERSONS PROVIDING SERVICES.—Services described in clauses (i), (ii), (iii), (iv), and (vi) of subparagraph (A) must be provided by qualified persons in accordance with each resident's written plan of care.

"(C) REQUIRED NURSING CARE; FACILITY WAIVERS.—

"(i) GENERAL REQUIREMENTS.—With respect to nursing facility services provided on or after October 1, 1990, a nursing facility—

"(I) except as provided in clause (ii), must provide 24-hour licensed nursing services which are sufficient to meet the nursing needs of its residents, and

"(II) except as provided in clause (ii), must use the services of a registered nurse for at least 8 consecutive hours a day, 7 days a week.

"(ii) FACILITY WAIVERS.—

"(I) WAIVER BY STATE.—A State may waive the requirement of subclause (I) or (II) of clause (i) with respect to a facility if—

"(I) the facility demonstrates to the satisfaction of the State that the facility has been unable, despite diligent efforts (including offering wages at the community prevailing rate for nursing facilities), to recruit appropriate personnel,

"(II) the State determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility, and

"(III) the State finds that, for any such periods in which licensed nursing services are not available, a registered nurse or a physician is obligated to respond immediately to telephone calls from the facility.

A waiver under this clause shall be subject to annual review and to the review of the Secretary and subject to clause (ii) shall be accepted by the Secretary for purposes of this title to the same extent as is the State's certification of the facility. In granting or renewing a waiver, a State may require the facility to employ other qualified, licensed personnel.

"(ii) ASSUMPTION OF WAIVER AUTHORITY BY SECRETARY.—If the Secretary determines that a State has shown a clear pattern and practice of allowing waivers in the absence of diligent efforts by facilities to meet the staffing requirements, the Secretary shall assume and excercise the authority of the State to grant waivers.

"(5) REQUIRED TRAINING OF NURSE AIDES.—

"(A) IN GENERAL.—A nursing facility must not use (on a full-time, temporary, per diem, or other basis) any individual, who is not a licensed health professional (as defined in subparagraph (E)), as a nurse aide in the facility on or after

January 1, 1990, for more than 4 months unless the individual— 101 STAT. 1330-187

"(i) has completed a training and competency evaluation program, or a competency evaluation program, approved by the State under subsection (e)(1)(A), and

"(ii) is competent to provide such services.

"(B) OFFERING COMPETENCY EVALUATION PROGRAMS FOR CURRENT EMPLOYEES.—A nursing facility must provide, for individuals used as a nurse aide by the facility as of July 1, 1989, for a competency evaluation program approved by the State under subsection (e)(1) and such preparation as may be necessary for the individual to complete such a program by January 1, 1990.

"(C) COMPETENCY.—The nursing facility must not permit an individual, other than in a training and competency evaluation program approved by the State, to serve as a nurse aide or provide services of a type for which the individual has not demonstrated competency and must not use such an individual as a nurse aide unless the facility has inquired of the State registry established under subsection (e)(2)(A) as to information in the registry concerning the individual.

"(D) RE-TRAINING REQUIRED.—For purposes of subparagraph (A), if, since an individual's most recent completion of a training and competency evaluation program, there has been a continuous period of 24 consecutive months during none of which the individual performed nursing or nursing-related services for monetary compensation, such individual shall complete a new training and competency evaluation program.

"(E) REGULAR IN-SERVICE EDUCATION.—The nursing facility must provide such regular performance review and regular in-service education as assures that individuals used as nurse aides are competent to perform services as nurse aides, including training for individuals providing nursing and nursing-related services to residents with cognitive impairments.

"(F) NURSE AIDE DEFINED.—In this paragraph, the term 'nurse aide' means any individual providing nursing or nursing-related services to residents in a nursing facility, but does not include an individual—

"(i) who is a licensed health professional (as defined in subparagraph (G)), or

"(ii) who volunteers to provide such services without monetary compensation.

"(G) LICENSED HEALTH PROFESSIONAL DEFINED.—In this paragraph, the term 'licensed health professional' means a physician, physician assistant, nurse practitioner, physical, speech, or occupational therapist, registered professional nurse, licensed practical nurse, or licensed or certified social worker.

"(6) PHYSICIAN SUPERVISION AND CLINICAL RECORDS.—A nursing facility must—

"(A) require that the health care of every resident be provided under the supervision of a physician;

"(B) provide for having a physician available to furnish necessary medical care in case of emergency; and 101 STAT. 1330-188

"(C) maintain clinical records on all residents, which records include the plans of care (described in paragraph (2)) and the residents' assessments (described in paragraph (3)), as well as the results of any pre-admission screening conducted under subsection (e)(7).

"(7) REQUIRED SOCIAL SERVICES.—In the case of a nursing facility with more than 120 beds, the facility must have at least one social worker (with at least a bachelor's degree in social work or similar professional qualifications) employed full-time to provide or assure the provision of social services.

"(c) REQUIREMENTS RELATING TO RESIDENTS' RIGHTS.—

"(1) GENERAL RIGHTS.—

"(A) SPECIFIED RIGHTS.—A nursing facility must protect and promote the rights of each resident, including each of the following rights:

"(i) FREE CHOICE.—The right to choose a personal attending physician, to be fully informed in advance about care and treatment, to be fully informed in advance of any changes in care or treatment that may affect the resident's well-being, and (except with respect to a resident adjudged incompetent) to participate in planning care and treatment or changes in care and treatment.

"(ii) FREE FROM RESTRAINTS.—The right to be free from physical or mental abuse, corporal punishment, involuntary seclusion, and any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms. Restraints may only be imposed—

"(I) to ensure the physical safety of the resident or other residents, and

"(II) only upon the written order of a physician that specifies the duration and circumstances under which the restraints are to be used (except in emergency circumstances specified by the Secretary) until such an order could reasonably be obtained.

"(iii) PRIVACY.—The right to privacy with regard to accommodations, medical treatment, written and telephonic communications, visits, and meetings of family and of resident groups.

"(iv) CONFIDENTIALITY.—The right to confidentiality of personal and clinical records.

"(v) ACCOMMODATION OF NEEDS.—The right—

"(I) to reside and receive services with reasonable accommodations of individual needs and preferences, except where the health or safety of the individual or other residents would be endangered, and

"(II) to receive notice before the room or roommate of the resident in the facility is changed.

"(vi) GRIEVANCES.—The right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances and the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.

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"(vii) PARTICIPATION IN RESIDENT AND FAMILY GROUPS.—The right of the resident to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility.

[61] "(viii) PARTICIPATION IN OTHER ACTIVITIES.—The right of the resident to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

[62] "(ix) EXAMINATION OF SURVEY RESULTS.—The right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Secretary or a State with respect to the facility and any plan of correction in effect with respect to the facility.

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[61] Copy read " "(ix)".
[62] Copy read " "(x)".

[63] "(x) OTHER RIGHTS.—Any other right established by the Secretary.

Clause (iii) shall not be construed as requiring the provision of a private room.

"(B) NOTICE OF RIGHTS.—A nursing facility must—

"(i) inform each resident, orally and in writing at the time of admission to the facility, of the resident's legal rights during the stay at the facility;

"(ii) make available to each resident, upon reasonable request, a written statement of such rights (which statement is updated upon changes in such rights);

"(iii) inform each resident who is entitled to medical assistance under this title—

"(I) at the time of admission to the facility or, if later, at the time the resident becomes eligible for such assistance, of the items and services (including those specified under section 1902(a)(28)(B)) that are included in nursing facility services under the State plan and for which the resident may not be charged (except as permitted in section 1916), and of those other items and services that the facility offers and for which the resident may be charged and the amount of the charges for such items and services, and

"(II) of changes in the items and services described in subclause (I) and of changes in the charges imposed for items and services described in that subclause; and

"(iv) inform each other resident, in writing before or at the time of admission and periodically during the resident's stay, of services available in the facility and of related charges for such services, including any charges for services not covered under title XVIII or by the facility's basic per diem charge.

The written description of legal rights under this subparagraph shall include a description of the protection of personal funds under paragraph (6) and a statement that a resident may file a complaint with a State survey and certification agency respecting resident abuse and neglect and misappropriation of resident property in the facility. 101 STAT. 1330-190

"(C) RIGHTS OF INCOMPETENT RESIDENTS.—In the case of a resident adjudged incompetent under the laws of a State, the rights of the resident under this title shall devolve upon, and, to the extent judged necessary by a court of competent jurisdiction, be exercised by, the person appointed under State law to act on the resident's behalf.

"(D) USE OF PSYCHOPHARMACOLOGIC DRUGS.—Psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan (included in the written plan of care described in paragraph (2)) designed to eliminate or modify the symptoms for which the drugs are prescribed and only if, at least annually an independent, external consultant reviews the appropriateness of the drug plan of each resident receiving such drugs.

"(2) TRANSFER AND DISCHARGE RIGHTS.—

"(A) IN GENERAL.—A nursing facility must permit each resident to remain in the facility and must not transfer or discharge the resident from the facility unless—

"(i) the transfer or discharge is necessary to meet the resident's welfare and the resident's welfare cannot be met in the facility;

"(ii) the transfer or discharge is appropriate because the resident's health has improved sufficiently so the

[63] Copy read " "(xi)".

resident no longer needs the services provided by the facility;

"(iii) the safety of individuals in the facility is endangered;

"(iv) the health of individuals in the facility would otherwise be endangered;

"(v) the resident has failed, after reasonable and appropriate notice, to pay (or to have paid under this title or title XVIII on the resident's behalf) an allowable charge imposed by the facility for an item or service requested by the resident and for which a charge may be imposed consistent with this title and title XVIII; or

"(vi) the facility ceases to operate.

In each [64] of the cases described in clauses (i) through (iv), the basis for the transfer or discharge must be documented in the resident's clinical record. In the cases described in clauses (i) and (ii), the documentation must be made by the resident's physician, and in the case described in clause (iv) the documentation must be made by a physician. For purposes of clause (v), in the case of a resident who becomes eligible for assistance under this title after admission to the facility, only charges which may be imposed under this title shall be considered to be allowable.

"(B) PRE-TRANSFER AND PRE-DISCHARGE NOTICE.—

"(i) IN GENERAL.—Before effecting a transfer or discharge of a resident, a nursing facility must—

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"(I) notify the resident (and, if known, an immediate family member of the resident or legal representative) of the transfer or discharge and the reasons therefor,

"(II) record the reasons in the resident's clinical record (including any documentation required under subparagraph (A)), and

"(III) include in the notice the items described in clause (iii).

"(ii) TIMING OF NOTICE.—The notice under clause (i)(I) must be made at least 30 days in advance of the resident's transfer or discharge except—

"(I) in a case described in clause (iii) or (iv) of subparagraph (A);

"(II) in a case described in clause (ii) of subparagraph (A), where the resident's health improves sufficiently to allow a more immediate transfer or discharge;

"(III) in a case described in clause (i) of subparagraph (A), where a more immediate transfer or discharge is necessitated by the resident's urgent medical needs; or

"(IV) in a case where a resident has not resided in the facility for 30 days.

In the case of such exceptions, notice must be given as many days before the date of the transfer or discharge as is practicable.

"(iii) ITEMS INCLUDED IN NOTICE.—Each notice under clause (i) must include—

"(I) for transfers or discharges effected on or after October 1, 1989, notice of the resident's right to appeal the transfer or discharge under the State process established under subsection (e)(3);

"(II) the name, mailing address, and telephone number of the State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965);

[64] Copy read "In the each".

"(III) in the case of residents with developmental disabilities, the mailing address and telephone number of the agency responsibile for the protection and advocacy system for developmentally disabled individuals established under part C of the Developmental Disabilities Assistance and Bill of Rights Act; and

"(IV) in the case of mentally ill residents (as defined in subsection (e)(7)(G)(i)), the mailing address and telephone number of the agency responsible for the protection and advocacy system for mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act.

"(C) ORIENTATION.—A nursing facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

"(D) NOTICE ON BED-HOLD POLICY AND READMISSION.—

"(i) NOTICE BEFORE TRANSFER.—Before a resident of a nursing facility is transferred for hospitalization or therapeutic leave, a nursing facility must provide written information to the resident and an immediate family member or legal representative concerning— 101 STAT. 1330-192

"(I) the provisions of the State plan under this title regarding the period (if any) during which the resident will be permitted under the State plan to return and resume residence in the facility, and

"(II) the policies of the facility regarding such a period, which policies must be consistent with clause (iii).

"(ii) NOTICE UPON TRANSFER.—At the time of transfer of a resident to a hospital or for therapeutic leave, a nursing facility must provide written notice to the resident and an immediate family member or legal representative of the duration of any period described in clause (i).

"(iii) PERMITTING RESIDENT TO RETURN.—A nursing facility must establish and follow a written policy under which a resident—

"(I) who is eligible for medical assistance for nursing facility services under a State plan,

"(II) who is transferred from the facility for hospitalization or therapeutic leave, and

"(III) whose hospitalization or therapeutic leave exceeds a period paid for under the State plan for the holding of a bed in the facility for the resident,

will be permitted to be readmitted to the facility immediately upon the first availability of a bed in a semiprivate room in the facility if, at the time of readmission, the resident requires the services provided by the facility.

"(3) ACCESS AND VISITATION RIGHTS.—A nursing facility must—

"(A) permit immediate access to any resident by any representative of the Secretary, by any representative of the State, by an ombudsman or agency described in subclause (II), (III), or (IV) of paragraph (2)(B)(iii), or by the resident's individual physician;

"(B) permit immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives of the resident;

"(C) permit immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident;

"(D) permit reasonable access to a resident by any entity or individual that provides health, social, legal, or other

services to the resident, subject to the resident's right to deny or withdraw consent at any time; and

"(E) permit representatives of the State ombudsman (described in paragraph (2)(B)(iii)(II)), with the permission of the resident (or the resident's legal representative) and consistent with State law, to examine a resident's clinical records.

"(4) EQUAL ACCESS TO QUALITY CARE.—

"(A) IN GENERAL.—A nursing facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services required under the State plan for all individuals regardless of source of payment.

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"(B) CONSTRUCTION.—

"(i) NOTHING PROHIBITING ANY CHARGES FOR NON-MEDICAID PATIENTS.—Subparagraph (A) shall not be construed as prohibiting a nursing facility from charging any amount for services furnished, consistent with the notice in paragraph (1)(B) describing such charges.

"(ii) NO ADDITIONAL SERVICES REQUIRED.—Subparagraph (A) shall not be construed as requiring a State to offer additional services on behalf of a resident than are otherwise provided under the State plan.

"(5) ADMISSIONS POLICY.—

"(A) ADMISSIONS.—With respect to admissions practices, a nursing facility must—

"(i)(I) not require individuals applying to reside or residing in the facility to waive their rights to benefits under this title or title XVIII, (II) not require oral or written assurance that such individuals are not eligible for, or will not apply for, benefits under this title or title XVIII, and (III) prominently display in the facility written information, and provide to such individuals oral and written information, about how to apply for and use such benefits and how to receive refunds for previous payments covered by such benefits;

"(ii) not require a third party guarantee of payment to the facility as a condition of admission (or expedited admission) to, or continued stay in, the facility; and

"(iii) in the case of an individual who is entitled to medical assistance for nursing facility services, not charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid under the State plan under this title, any gift, money, donation, or other consideration as a precondition of admitting (or expediting the admission of) the individual to the facility or as a requirement for the individual's continued stay in the facility.

"(B) CONSTRUCTION.—

"(i) NO PREEMPTION OF STRICTER STANDARDS.—Subparagraph (A) shall not be construed as preventing States or political subdivisions therein from prohibiting, under State or local law, the discrimination against individuals who are entitled to medical assistance under the State plan with respect to admissions practices of nursing facilities.

"(ii) CONTRACTS WITH LEGAL REPRESENTATIVES.—Subparagraph (A)(ii) shall not be construed as preventing a facility from requiring an individual, who has legal access to a resident's income or resources available to pay for care in the facility, to sign a contract (without incurring personal financial liability) to provide payment from the resident's income or resources for such care.

"(iii) CHARGES FOR ADDITIONAL SERVICES REQUESTED.—Subparagraph (A)(iii) shall not be construed as preventing a facility from charging a resident, eligible for

medical assistance under the State plan, for items or services the resident has requested and received and that are not specified in the State plan as included in the term 'nursing facility services'. 101 STAT. 1330-194

"(iv) BONA FIDE CONTRIBUTIONS.—Subparagraph (A)(iii) shall not be construed as prohibiting a nursing facility from soliciting, accepting, or receiving a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to the resident (or potential resident), but only to the extent that such contribution is not a condition of admission, expediting admission, or continued stay in the facility.

"(6) PROTECTION OF RESIDENT FUNDS.—

"(A) IN GENERAL.—The nursing facility—

"(i) may not require residents to deposit their personal funds with the facility, and

"(ii) once the facility accepts the written authorization of the resident, must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this paragraph.

"(B) MANAGEMENT OF PERSONAL FUNDS.—Upon a facility's acceptance of written authorization of a resident under subparagraph (A)(ii), the facility must manage and account for the personal funds of the resident deposited with the facility as follows:

"(i) DEPOSIT.—The facility must deposit any amount of personal funds in excess of $50 with respect to a resident in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts and credits all interest earned on such separate account to such account. With respect to any other personal funds, the facility must maintain such funds in a non-interest bearing account or petty cash fund.

"(ii) ACCOUNTING AND RECORDS.—The facility must assure a full and complete separate accounting of each such resident's personal funds, maintain a written record of all financial transactions involving the personal funds of a resident deposited with the facility, and afford the resident (or a legal representative of the resident) reasonable access to such record.

"(iii) NOTICE OF CERTAIN BALANCES.—The facility must notify each resident receiving medical assistance under the State plan under title XIX when the amount in the resident's account reaches $200 less than the dollar amount determined under section 1611(a)(3)(B) and the fact that if the amount in the account (in addition to the value of the resident's other nonexempt resources) reaches the amount determined under such section the resident may lose eligibility for such medical assistance or for benefits under title XVI.

"(iv) CONVEYANCE UPON DEATH.—Upon the death of a resident with such an account, the facility must convey promptly the resident's personal funds (and a final accounting of such funds) to the individual administering the resident's estate. 101 STAT. 1330-195

"(C) ASSURANCE OF FINANCIAL SECURITY.—The facility must purchase a surety bond, or otherwise provide assurance satisfactory to the Secretary, to assure the security of all personal funds of residents deposited with the facility.

"(D) LIMITATION ON CHARGES TO PERSONAL FUNDS.—The facility may not impose a charge against the personal funds of a resident for any item or service for which payment is made under this title or title XVIII.

"(d) REQUIREMENTS RELATING TO ADMINISTRATION AND OTHER MATTERS.—

"(1) ADMINISTRATION.—

"(A) IN GENERAL.—A nursing facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident (consistent with requirements established under subsection (f)(5)).

"(B) REQUIRED NOTICES.—If a change occurs in—

"(i) the persons with an ownership or control interest (as defined in section 1124(a)(3)) in the facility,

"(ii) the persons who are officers, directors, agents, or managing employees (as defined in section 1126(b)) of the facility,

"(iii) the corporation, association, or other company responsible for the management of the facility, or

"(iv) the individual who is the administrator or director of nursing of the facility,

the nursing facility must provide notice to the State agency responsible for the licensing of the facility, at the time of the change, of the change and of the identity of each new person, company, or individual described in the respective clause.

"(C) NURSING FACILITY ADMINISTRATOR.—The administrator of a nursing facility must meet standards established by the Secretary under subsection (f)(4).

"(2) LICENSING AND LIFE SAFETY CODE.—

"(A) LICENSING.—A nursing facility must be licensed under applicable State and local law.

"(B) LIFE SAFETY CODE.—A nursing facility must meet such provisions of such edition (as specified by the Secretary in regulation) of the Life Safety Code of the National Fire Protection Association as are applicable to nursing homes; except that—

"(i) the Secretary may waive, for such periods as he deems appropriate, specific provisions of such Code which if rigidly applied would result in unreasonable hardship upon a facility, but only if such waiver would not adversely affect the health and safety of residents or personnel, and

"(ii) the provisions of such Code shall not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects residents of and personnel in nursing facilities.

"(3) SANITARY AND INFECTION CONTROL AND PHYSICAL ENVIRONMENT.—A nursing facility must—

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"(A) establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment in which residents reside and to help prevent the development and transmission of disease and infection, and

"(B) be designed, constructed, equipped, and maintained in a manner to protect the health and safety of residents, personnel, and the general public.

"(4) MISCELLANEOUS.—

"(A) COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND PROFESSIONAL STANDARDS.—A nursing facility must operate and provide services in compliance with all applicable Federal, State, and local laws and regulations (including the requirements of section 1124 and with accepted professional standards and principles which apply to professionals providing services in such a facility.

"(B) OTHER.—A nursing facility must meet such other requirements relating to the health and safety of residents or relating to the physical facilities thereof as the Secretary may find necessary.".

(c) STATE REQUIREMENTS RELATING TO NURSING FACILITY REQUIREMENTS.—Section 1919 of such Act is further amended by adding at the end the following new subsection: 42 USC 1396r.

"(e) STATE REQUIREMENTS RELATING TO NURSING FACILITY REQUIREMENTS.—As a condition of approval of [65] its plan under this title, a State must provide for the following:

"(1) SPECIFICATION AND REVIEW OF NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS AND OF NURSE AIDE COMPETENCY EVALUATION PROGRAMS.—The State must—

"(A) by not later than September 1, 1988, specify those training and competency evaluation programs, and those competency evaluation programs, that the State approves for purposes of subsection (b)(5) and that meet the requirements established under clause (i) or (ii) of subsection (f)(2)(A), and

"(B) by not later than September 1, 1990, provide for the review and reapproval of such programs, at a frequency and using a methodology consistent with the requirements established under subsection (f)(2)(A)(iii).

The failure of the Secretary to establish requirements under subsection (f)(2) shall not relieve any State of its responsibility under this paragraph.

"(2) NURSE AIDE REGISTRY.—

"(A) IN GENERAL.—By not later than January 1, 1989, the State shall establish and maintain a registry of all individuals who have satisfactorily completed a nurse aide training and competency evaluation program, or a nurse aide competency evaluation program, approved under paragraph (1) in the State.

"(B) INFORMATION IN REGISTRY.—The registry under subparagraph (A) shall provide (in accordance with regulations of the Secretary) for the inclusion of specific documented findings by a State under subsection (g)(1)(C) of resident neglect or abuse or misappropriation of resident property involving an individual listed in the registry, as well as any brief statement of the individual disputing the findings. In the case of inquiries to the registry concerning an individual listed in the registry, any information disclosed concerning such a finding shall also include disclosure of any such statement in the registry relating to the finding or a clear and accurate summary of such a statement. 101 STAT. 1330-197

"(3) STATE APPEALS PROCESS FOR TRANSFERS.—The State, for transfers from nursing facilities effected on or after October 1, 1989, must provide for a fair mechanism, meeting the guidelines established under subsection (f)(3), for hearing appeals on transfers of residents of such facilities; but the failure of the Secretary to establish such guidelines under such subsection shall not relieve any State of its responsibility under this paragraph.

"(4) NURSING FACILITY ADMINISTRATOR STANDARDS.—By not later than July 1, 1989, the State must have implemented and enforced the nursing facility administrator standards developed under subsection (f)(4) respecting the qualification of administrators of nursing facilities.

"(5) SPECIFICATION OF RESIDENT ASSESSMENT INSTRUMENT.—Effective July 1, 1990, the State shall specify the instrument to be used by nursing facilities in the State in complying with the requirement of subsection (b)(3)(A)(iii). Such instrument shall be—

[65] Copy read "approval its".

"(A) one of the instruments designated under subsection (f)(6)(B), or

"(B) an instrument which the Secretary has approved as being consistent with the minimum data set of core elements, common definitions, and utilization guidelines specified by the Secretary under subsection (f)(6)(A).

"(6) NOTICE OF MEDICAID RIGHTS.—Each State, as a condition of approval of its plan under this title, effective April 1, 1988, must develop (and periodically update) a written notice of the rights and obligations of residents of nursing facilities (and spouses of such residents) under this title.

"(7) STATE REQUIREMENTS FOR PREADMISSION SCREENING AND RESIDENT REVIEW.—

"(A) PREADMISSION SCREENING.—Effective January 1, 1989, the State must have in effect a preadmission screening program, for making determinations (using any criteria developed under subsection (f)(8)) described in subsection (b)(3)(F) for mentally ill and mentally retarded individuals (as defined in subparagraph (G)) who are admitted to nursing facilities on or after January 1, 1989. The failure of the Secretary to develop minimum criteria under subsection (f)(8) shall not relieve any State of its responsibility to have a preadmission screening program under this subparagraph or to perform resident reviews under subparagraph (B).

"(B) STATE REQUIREMENT FOR ANNUAL RESIDENT REVIEW.—

"(i) FOR MENTALLY ILL RESIDENTS.—As of April 1, 1990, in the case of each resident of a nursing facility who is mentally ill, the State mental health authority must review and determine (using any criteria developed under subsection (f)(8) and based on an independent physical and mental evaluation performed by a person or entity other than the State mental health authority)—

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"(I) whether or not the resident, because of the resident's physical and mental condition, requires the level of services provided by a nursing facility or requires the level of services of an inpatient psychiatric hospital for individuals under age 21 (as described in section 1905(h)) or of an institution for mental diseases providing medical assistance to individuals 65 years of age or older; and

"(II) whether or not the resident requires active treatment for mental illness.

"(ii) FOR MENTALLY RETARDED RESIDENTS.—As of April 1, 1990, in the case of each resident of a nursing facility who is mentally retarded, the State mental retardation or developmental disability authority must review and determine (using any criteria developed under subsection (f)(8))—

"(I) whether or not the resident, because of the resident's physical and mental condition, requires the level of services provided by a nursing facility or requires the level of services of an intermediate care facility described under section 1905(d); and

"(II) whether or not the resident requires active treatment for mental retardation.

"(iii) FREQUENCY OF REVIEWS.—

"(I) ANNUAL.—Except as provided in subclauses (II) and (III), the reviews and determinations under clauses (i) and (ii) must be conducted with respect to each mentally ill or mentally retarded resident not less often than annually.

"(II) PREADMISSION REVIEW CASES.—In the case of a resident subject to a preadmission review under

subsection (b)(3)(F), the review and determination under clause (i) or (ii) need not be done until the resident has resided in the nursing facility for 1 year.

"(III) INITIAL REVIEW.—The reviews and determinations under clauses (i) and (ii) must first be conducted (for each resident not subject to preadmission review under subsection (b)(3)(F)) by not later than April 1, 1990.

"(C) RESPONSE TO PREADMISSION SCREENING AND RESIDENT REVIEW.—As of April 1, 1990, the State must meet the following requirements:

"(i) LONG-TERM RESIDENTS NOT REQUIRING NURSING FACILITY SERVICES, BUT REQUIRING ACTIVE TREATMENT.—In the case of a resident who is determined, under subparagraph (B), not to require the level of services provided by a nursing facility, but to require active treatment for mental illness or mental retardation, and who has continuously resided in a nursing facility for at least 30 months before the date of the determination, the State must, in consultation with the resident's family or legal representative and care-givers— 101 STAT. 1330-199

"(I) inform the resident of the institutional and noninstitutional alternatives covered under the State plan for the resident,

"(II) offer the resident the choice of remaining in the facility or of receiving covered services in an alternative appropriate institutional or noninstitutional setting,

"(III) clarify the effect on eligibility for services under the State plan if the resident chooses to leave the facility (including its effect on readmission to the facility), and

"(IV) regardless of the resident's choice, provide for (or arrange for the provision of) such active treatment for the mental illness or mental retardation.

A State shall not be denied payment under this title for nursing facility services for a resident described in this clause because the resident does not require the level of services provided by such a facility, if the resident chooses to remain in such a facility.

"(ii) OTHER RESIDENTS NOT REQUIRING NURSING FACILITY SERVICES, BUT REQUIRING ACTIVE TREATMENT.—In the case of a resident who is determined, under subparagraph (B), not to require the level of services provided by a nursing facility, but to require active treatment for mental illness or mental retardation, and who has not continuously resided in a nursing facility for at least 30 months before the date of the determination, the State must, in consultation with the resident's family or legal representative and care-givers—

"(I) arrange for the safe and orderly discharge of the resident from the facility, consistent with the requirements of subsection (c)(2),

"(II) prepare and orient the resident for such discharge, and

"(III) provide for (or arrange for the provision of) such active treatment for the mental illness or mental retardation.

"(iii) RESIDENTS NOT REQUIRING NURSING FACILITY SERVICES AND NOT REQUIRING ACTIVE TREATMENT.—In the case of a resident who is determined, under subparagraph (B), not to require the level of services provided by a nursing facility and not to require active

treatment for mental illness or mental retardation, the State must—

"(I) arrange for the safe and orderly discharge of the resident from the facility, consistent with the requirements of subsection (c)(2), and

"(II) prepare and orient the resident for such discharge.

"(D) DENIAL OF PAYMENT WHERE FAILURE TO CONDUCT PREADMISSION SCREENING.—No payment may be made under section 1903(a) with respect to nursing facility services furnished to an individual for whom a determination is required under subsection (b)(3)(F) or subparagraph (B) but for whom the determination is not made.

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Contracts.

"(E) PERMITTING ALTERNATIVE DISPOSITION PLANS.—With respect to residents of a nursing facility who are mentally retarded or mentally ill and who are determined under subparagraph (B) not to require the level of services of such a facility, but who require active treatment for mental illness or mental retardation, a State and the nursing facility shall be considered to be in compliance with the requirement of this paragraph if, before October 1, 1988, the State and the Secretary have entered into an agreement relating to the disposition of such residents of the facility and the State is in compliance with such agreement. Such an agreement may provide for the disposition of the residents after the date specified in subparagraph (C).

"(F) APPEALS PROCEDURES.—Each State, as a condition of approval of its plan under this title, effective January 1, 1989, must have in effect an appeals process for individuals adversely affected by determinations under subparagraph (A) or (B).

"(G) DEFINITIONS.—In this paragraph and in subsection (b)(3)(F):

"(i) An individual is considered to be 'mentally ill' if the individual has a primary or secondary diagnosis of mental disorder (as defined in the Diagnostic and Statistical Manual of Mental Disorders, 3rd edition) and does not have a primary diagnosis of dementia (including Alzheimer's disease or a related disorder).

"(ii) An individual is considered to be 'mentally retarded' if the individual is mentally retarded or a person with a related condition (as described in section 1905(d)).

"(iii) The term 'active treatment' has the meaning given such term by the Secretary in regulations, but does not include, in the case of a resident of a nursing facility, services within the scope of services which the facility must provide or arrange for its residents under subsection (b)(4).

"(f) RESPONSIBILITIES OF SECRETARY RELATING TO NURSING FACILITY REQUIREMENTS.—

"(1) GENERAL RESPONSIBILITY.—It is the duty and responsibility of the Secretary to assure that requirements which govern the provision of care in nursing facilities under State plans approved under this title, and the enforcement of such requirements, are adequate to protect the health, safety, welfare, and rights of residents and to promote the effective and efficient use of public moneys.

"(2) REQUIREMENTS FOR NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS AND FOR NURSE AIDE COMPETENCY EVALUATION PROGRAMS.—

"(A) IN GENERAL.—For purposes of subsections (b)(5) and (e)(1)(A), the Secretary shall establish, by not later than July 1, 1988—

"(i) requirements for the approval of nurse aide

training and competency evaluation programs, including requirements relating to (I) the areas to be covered in such a program (including at least basic nursing skills, personal care skills, cognitive, behavioral and social care, basic restorative services, and residents' rights), content of the curriculum, (II) minimum hours of initial and ongoing training and retraining (including not less than 75 hours in the case of initial training), (III) qualifications of instructors, and (IV) procedures for determination of competency;

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"(ii) requirements for the approval of nurse aide competency evaluation programs, including requirement relating to the areas to be covered in such a program, including at least basic nursing skills, personal care skills, cognitive, behavioral and social care, basic restorative services, and residents' rights, and procedures for determination of competency;

"(iii) requirements respecting the minimum frequency and methodology to be used by a State in reviewing such programs' compliance with the requirements for such programs.

"(B) APPROVAL OF CERTAIN PROGRAMS.—Such requirements—

"(i) may permit approval of programs offered by or in facilities, as well as outside facilities (including employee organizations), and of programs in effect on the date of the enactment of this section;

"(ii) shall permit a State to find that an individual who has completed (before January 1, 1989) a nurse aide training and competency evaluation program shall be deemed to have completed such a program approved under subsection (b)(5) if the State determines that, at the time the program was offered, the program met the requirements for approval under such paragraph; and

"(iii) shall prohibit approval of such a program—

"(I) offered by or in a nursing facility which has been determined to be out of compliance with the requirements of subsection (b), (c), or (d), within the previous 2 years, or

"(II) offered by or in a nursing facility unless the State makes the determination, upon an individual's completion of the program, that the individual is competent to provide nursing and nursing-related services in nursing facilities.

A State may not delegate its responsibility under clause (iii)(II) to the nursing facility.

"(3) FEDERAL GUIDELINES FOR STATE APPEALS PROCESS FOR TRANSFERS.—For purposes of subsections (c)(2)(B)(iii) and (e)(3), by not later than October 1, 1988, the Secretary shall establish guidelines for minimum standards which State appeals processes under subsection (e)(3) must meet to provide a fair mechanism for hearing appeals on transfers of residents from nursing facilities.

"(4) SECRETARIAL STANDARDS QUALIFICATION OF ADMINISTRATORS.—For purposes of subsections (d)(1)(C) and (e)(4), the Secretary shall develop, by not later than March 1, 1988, standards to be applied in assuring the qualifications of administrators of nursing facilities.

"(5) CRITERIA FOR ADMINISTRATION.—The Secretary shall establish criteria for assessing a nursing facility's compliance with the requirement of subsection (d)(1) with respect to—

"(A) its governing body and management,

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"(B) agreements with hospitals regarding transfers of residents to and from the hospitals and to and from other nursing facilities,

"(C) disaster preparedness,

"(D) direction of medical care by a physician,
"(E) laboratory and radiological services,
"(F) clinical records, and
"(G) resident and advocate participation.

"(6) SPECIFICATION OF RESIDENT ASSESSMENT DATA SET AND INSTRUMENTS.—The Secretary shall—

"(A) not later than January 1, 1989, specify a minimum data set of core elements and common definitions for use by nursing facilities in conducting the assessments required under subsection (b)(3), and establish guidelines for utilization of the data set; and

"(B) by not later than April 1, 1990, designate one or more instruments which are consistent with the specification made under subparagraph (A) and which a State may specify under subsection (e)(5)(A) for use by nursing facilities in complying with the requirements of subsection (b)(3)(A)(iii).

"(7) LIST OF ITEMS AND SERVICES FURNISHED IN NURSING FACILITIES NOT CHARGEABLE TO THE PERSONAL FUNDS OF A RESIDENT.—

"(A) REGULATIONS REQUIRED.—Pursuant to the requirement of section 21(b) of the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977, the Secretary shall issue regulations, on or before the first day of the seventh month to begin after the date of enactment of this section, that define those costs which may be charged to the personal funds of patients in nursing facilities who are individuals receiving medical assistance with respect to nursing facility services under this title and those costs which are to be included in the payment amount under this title for nursing facility services.

"(B) RULE IF FAILURE TO PUBLISH REGULATIONS.—If the Secretary does not issue the regulations under subparagraph (A) on or before the date required in that subparagraph, in the case of a resident of a nursing facility who is eligible to receive benefits for nursing facility services under this title, for purposes of section 1902(a)(28)(B), the Secretary shall be deemed to have promulgated regulations under this paragraph which provide that the costs which may not be charged to the personal funds of such resident (and for which payment is considered to be made under this title) do not include, at a minimum, the costs for routine personal hygiene items and services furnished by the facility.

"(8) FEDERAL MINIMUM CRITERIA AND MONITORING FOR PREADMISSION SCREENING AND RESIDENT REVIEW.—

"(A) MINIMUM CRITERIA.—The Secretary shall develop, by not later than October 1, 1988, minimum criteria for States to use in making determinations under subsections (b)(3)(F) and (e)(7)(B) and in permitting individuals adversely affected to appeal such determinations, and shall notify the States of such criteria.

"(B) MONITORING COMPLIANCE.—The Secretary shall review, in a sufficient number of cases to allow reasonable inferences, each State's compliance with the requirements of subsection (e)(7)(C)(ii) (relating to discharge and placement for active treatment of certain residents).

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"(9) [66] CRITERIA FOR MONITORING STATE WAIVERS.—The Secretary shall develop, by not later than October 1, 1988, criteria and procedures for monitoring State performances in granting waivers pursuant to subsection (b)(4)(C)(ii).".

(b) INCORPORATING REQUIREMENTS INTO STATE PLAN.—

(1) IN GENERAL.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

[66] Copy read "(8)".

(A) in paragraph (13)(A), by inserting "which, in the case of nursing facilities, take into account the costs of complying with subsections (b) (other than paragraph (3)(F) thereof), (c), and (d) of section 1919 and provide (in the case of a nursing facility with a waiver under section 1919(b)(4)(C)(ii)) for an appropriate reduction to take into account the lower costs (if any) of the facility for nursing care," after "State" the second place it appears; and

(B) by amending paragraph (28) to read as follows:

"(28) provide—

"(A) that any nursing facility receiving payments under such plan must satisfy all the requirements of subsections (b) through (d) of section 1919 as they apply to such facilities;

"(B) for including in 'nursing facility services' at least the items and services specified (or deemed to be specified) by the Secretary under section 1919(f)(7) and making available upon request a description of the items and services so included;

"(C) for procedures to make available to the public the data and methodology used in establishing payment rates for nursing facilities under this title; and

"(D) for compliance (by the date specified in the respective sections) with the requirements of—

"(i) section 1919(f) (relating to implementation of nursing facility requirements, including paragraph (6)(B), relating to specification of resident assessment instrument);

"(ii) section 1919(g) (relating to responsibility for survey and certification of nursing facilities); and

"(iii) sections 1919(h)(2)(B) and 1919(h)(2)(D) (relating to establishment and application of remedies);".

(2) STATE PLAN AMENDMENT REQUIRED.—A plan of a State under title XIX of the Social Security Act shall not be considered to have met the requirement of section 1902(a)(13)(A) of the Social Security Act (as amended by paragraph (1)(A) of this subsection), as of the first day of a Federal fiscal year (beginning on or after October 1, 1990), unless the State has submitted to the Secretary of Health and Human Services, as of April 1 before the fiscal year, an amendment to such State plan to provide for an appropriate adjustment in payment amounts for nursing facility services furnished during the Federal fiscal year. The Secretary shall, not later than September 30 before the fiscal year concerned, review each such plan amendment for compliance with such requirement and by such date shall approve or disapprove each such amendment. If the Secretary disapproves such an amendment, the State shall immediately submit a revised amendment which meets such requirement. The absence of approval of such a plan amendment does not relieve the State or any nursing facility of any obligation or requirement under title XIX of the Social Security Act (as amended by this Act).

42 USC 1396a note.

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(c) EVALUATION.—The Secretary of Health and Human Services shall evaluate, and report to Congress by not later than January 1, 1993, on the implementation of the resident assessment process for residents of nursing facilities under the amendments made by this section.

Reports. 42 USC 1396r note.

(d) FUNDING.—

(1) IN GENERAL.—Section 1903(a)(2) of such Act (42 U.S.C. 1396b(a)(2)) is amended—

(A) by inserting "(A)" after "(2)", and

(B) by adding at the end the following new subparagraphs:

"(B) notwithstanding paragraph (1) or subparagraph (A), with respect to amounts expended for nursing aide training and

competency evaluation programs, and competency evaluation programs, described in section 1919(e)(1), regardless of whether the programs are provided in or outside nursing facilities or of the skill of the personnel involved in such programs, an amount equal to 50 percent of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to such programs; plus

"(C) an amount equal to 75 percent of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to preadmission screening and resident review activities conducted by the State under section 1919(e)(7); plus".

42 USC 1396b note.

(2) ENHANCED FUNDING FOR NURSE AIDE TRAINING.—For calendar quarters during fiscal years 1988 and 1989, with respect to payment under section 1903(a)(2)(B) of the Social Security Act to a State for additional amounts expended by the State under its plan approved under title XIX of such Act for nursing aide training and competency evaluation programs, and competency evaluation programs, described in section 1919(e)(1) of such title, any reference to "50 percent" is deemed a reference to the sum of the Federal medical assistance percentage (determined under section 1905(b) of such Act) plus 25 percentage points, but not to exceed 90 percent.

(e) REVISION OF PREVIOUS DEFINITIONS.—Section 1905 of such Act (42 U.S.C. 1396d) is amended—

(1) by amending subsection (c) to read as follows:

"(c) For definition of the term 'nursing facility', see section 1919(a).";

(2) in subsection (d)—

(A) by striking "intermediate care facility services" and inserting "intermediate care facility for the mentally retarded",

(B) by striking "may include services in a public" and inserting "means an",

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(C) in paragraph (3), by inserting "in the case of a public institution," after "(3)";

(3) in subsection (f), by striking "skilled" each place it appears; and

(4) by striking subsection (i).

(f) MAKING COVERAGE OF NURSING FACILITY SERVICES MANDATORY FOR ADULTS.—Section 1905(a)(4)(A) of such Act (42 U.S.C. 1396d(a)(4)(A)) is amended by striking "skilled".

(g) ELIMINATION OF PAYMENT DIFFERENTIAL.—Section 1903 of such Act (42 U.S.C. 1396b) is amended—

(1) by striking subsection (h), and

(2) in subsection (a)(1), by striking ", (h), and" and inserting "and".

(h) CLARIFYING TERMINOLOGY.—(1) Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended—

(A) in subparagraph (A)(ii)(VI), by striking "skilled" and by inserting "for the mentally retarded" after "intermediate care facility";

(B) in subparagraph (C)(iv), by striking "intermediate care facility services" and inserting "in an intermediate care facility"; and

(C) in subparagraph (D), by striking "skilled".

(2) Section 1902(a)(13) of such Act (42 U.S.C. 1396a(a)(13)) is amended—

(A) in subparagraph (A), by striking ", skilled nursing facility, and intermediate care facility services" and inserting "services, nursing facility services, and services in an intermediate care facility for the mentally retarded"; [67]

[67] Copy read "retarded".".

(B) in subparagraph (A), by striking ", skilled nursing facility, and intermediate care facility and" and inserting "nursing facility, and intermediate care facility for the mentally retarded and";

(C) in subparagraph (C), by striking "skilled nursing facilities and intermediate care facilities" and inserting "nursing facilities"; and

(D) in subparagraph (D)—

(i) by striking "skilled nursing facility or intermediate care facility" and inserting "nursing facility", and

(ii) by striking "skilled nursing facility services or intermediate care facility services" and inserting "nursing facility services".

(3) Section 1902(a)(30)(B) of such Act (42 U.S.C. 1396a(a)(30)(B)) is amended by striking "skilled nursing facility, intermediate care facility," each place it appears and inserting "intermediate care facility for the mentally retarded,".

(4) Section 1902(e)(3)(B)(i) of such Act (42 U.S.C. 1396a(e)(3)(B)(i)) is amended by striking "skilled nursing facility, or intermediate care facility" and inserting "nursing facility, or intermediate care facility for the mentally retarded".

(5) Section 1902(e)(9) of such Act (42 U.S.C. 1396a(e)(9)) is amended—

(A) in subparagraph (A)(iii), by striking "skilled nursing facility, or intermediate care facility," and inserting "nursing facility, or intermediate care facility for the mentally retarded" and 101 STAT. 1330-206

(B) in subparagraph (B), by striking "skilled nursing facilities, or intermediate care facilities" and inserting "nursing facilities, or intermediate care facilities for the mentally retarded".

(6) Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended—

(A) in paragraph (5), by striking "skilled",

(B) in paragraph (14), by striking ", skilled nursing facility services, and intermediate care facility services" and inserting "and nursing facility services", and

(C) in paragraph (15), by striking "intermediate care facility services (other than such services" and inserting "services in an intermediate care facility for the mentally retarded (other than".

(7) Section 1128B of such Act (42 U.S.C. 1320a-7b) is amended—

(A) in subsection (c), by striking "intermediate care facility" and inserting "nursing facility, intermediate care facility for the mentally retarded", and

(B) in subsection (d)(2)(A), by striking "skilled nursing facility, or intermediate care facility" and inserting "nursing facility, or intermediate care facility for the mentally retarded".

(8) Section 1911 of such Act (42 U.S.C. 1396j) is amended by striking ", intermediate care facility, or skilled nursing facility" each place it appears and inserting "or nursing facility".

(9) Section 1913 of such Act (42 U.S.C. 1396l) is amended—

(A) in the heading, by striking "SKILLED NURSING AND INTERMEDIATE CARE SERVICES" and inserting "NURSING FACILITY SERVICES";

(B) in subsection (a)—

(i) by striking "skilled nursing facility services and intermediate care facility services" and inserting "nursing facility services", and

(ii) by inserting before the period at the end the following: "and which, with respect to the provision of such services, meets the requirements of subsections (b) through (d) of section 1919";

(C) in subsection (b)(1)—

(i) by striking "skilled nursing or intermediate care facility services" and inserting "nursing facility services", and

(ii) by striking "skilled nursing and intermediate care facilities" and inserting "nursing facilities"; and

(D) in subsection (b)(3), by striking "skilled nursing or intermediate care facility services" and inserting "nursing facility services".

(10) Section 1915(c) of such Act (42 U.S.C. 1396n(c)) is amended—

(A) in paragraph (1), by striking "skilled nursing facility or intermediate care facility" and inserting "nursing facility or intermediate care facility for the mentally retarded";

(B) in paragraph (2)(B)(i), by striking ", skilled nursing facility, or intermediate care facility services" and inserting "services, nursing facility services, or services in an intermediate care facility for the mentally retarded";

(C) in paragraph (2)(B), by striking "need" and all that follows up to the semicolon and inserting "need for inpatient hospital services, nursing facility services, or services in an intermediate care facility for the mentally retarded";

(D) in paragraph (2)(C), by striking "or skilled nursing facility or intermediate care facility" and inserting ", nursing facility, or intermediate care facility for the mentally retarded";

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(E) in paragraph (2)(C), by striking "or skilled nursing facility or intermediate care facility services" and inserting ", nursing facility services, or services in an intermediate care facility for the mentally retarded";

(F) in paragraph (5), by striking "skilled nursing facility or intermediate care facility" and inserting "nursing facility or intermediate care facility for the mentally retarded"; and

(G) in paragraph (7), by striking "or in skilled nursing or intermediate care facilities" and inserting ", nursing facilities, or intermediate care facilities for the mentally retarded".

42 USC 1396o.

(11) Section 1916 of such Act (42 U.S.C. 1396m) is amended, in subsections (a)(2)(C) and (b)(2)(C), by striking "skilled nursing facility, intermediate care facility" and inserting "nursing facility, intermediate care facility for the mentally retarded".

(12) Section 1917 of such Act (42 U.S.C. 1396p), as amended by this title, is further amended—

(A) in subsections (a)(1)(B)(i) and (c)(2)(B)(i), by striking "skilled nursing facility, intermediate care facility" and inserting "nursing facility, intermediate care facility for the mentally retarded", and

(B) in subsection (c)(3)(A), by striking "skilled".

(i) UTILIZATION REVIEW.—Section 1903(i)(4) of such Act (42 U.S.C. 1396b(i)(4)) is amended by striking "or skilled nursing facility" each place it appears.

42 USC 1396a note.

(j) TECHNICAL ASSISTANCE.—The Secretary of Health and Human Services shall, upon request by a State, furnish technical assistance with respect to the development and implementation of reimbursement methods for nursing facilities that take into account the case mix of residents in the different facilities.

42 USC 1396r note.

(k) REPORT ON STAFFING REQUIREMENTS.—The Secretary of Health and Human Services shall report to Congress, by not later than January 1, 1993, on the progress made in implementing the nursing facility staffing requirements of subparagraph (C) of section 1919(b)(4) of the Social Security Act (as amended by subsection (a) of this section), including the number and types of waivers approved under subparagraph (C)(ii) of such section and the number of facilities which have received waivers.

(l) CONFORMING AMENDMENT.—Section 9516(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking "section 1919" and inserting "section 1922".

42 USC 1396r-3 note.

SEC. 4212. SURVEY AND CERTIFICATION PROCESS.

(a) IN GENERAL.—Section 1919 of the Social Security Act, as inserted by section 4211, is amended by adding at the end the following new subsection:

"(g) SURVEY AND CERTIFICATION PROCESS.—

"(1) STATE AND FEDERAL RESPONSIBILITY.—

"(A) IN GENERAL.—Under each State plan under this title, the State shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of nursing facilities (other than facilities of the State) with the requirements of subsections (b), (c), and (d). The Secretary shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of State nursing facilities with the requirements of such subsections.

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"(B) EDUCATIONAL PROGRAM.—Each State shall conduct periodic educational programs for the staff and residents (and their representatives) of nursing facilities in order to present current regulations, procedures, and policies under this section.

"(C) INVESTIGATION OF ALLEGATIONS OF RESIDENT NEGLECT AND ABUSE AND MISAPPROPRIATION OF RESIDENT PROPERTY.—The State shall provide, through the agency responsible for surveys and certification of nursing facilities under this subsection, for a process for the receipt, review, and investigation of allegations of neglect and abuse and misappropriation of resident property by a nurse aide of a resident in a nursing facility. If the State finds, after notice to the nurse aide involved and a reasonable opportunity for a hearing for the nurse aide to rebut allegations, that a nurse aide whose name is contained in a nurse aide registry has neglected or abused a resident or misappropriated resident property in a facility, the State shall notify the nurse aide and the registry of such finding.

"(D) CONSTRUCTION.—The failure of the Secretary to establish standards under subsection (f) shall not relieve a State of its responsibility under this subsection.

"(2) SURVEYS.—

"(A) ANNUAL STANDARD SURVEY.—

"(i) IN GENERAL.—Each nursing facility shall be subject to a [68] standard survey, to be conducted without any prior notice to the facility. Any individual who notifies (or causes to be notified) a nursing facility of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of not to exceed $2,000. The Secretary shall provide for imposition of civil money penalties under this clause in a manner similar to that for the imposition of civil money penalties under section 1128A. The Secretary shall review each State's procedures for scheduling and conduct of standard surveys to assure that the State has taken all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

"(ii) CONTENTS.—Each standard survey shall include, for a case-mix stratified sample of residents—

"(I) a survey of the quality of care furnished, as measured by indicators of medical, nursing, and rehabilitative care, dietary and nutrition services, activities and social participation, and sanitation, infection control, and the physical environment,

"(II) written plans of care provided under subsection (b)(2) and an audit of the residents' assessments under subsection (b)(3) to determine the accuracy of such assessments and the adequacy of such plans of care, and

"(III) a review of compliance with residents' rights under subsection (c).

"(iii) FREQUENCY.—

[68] Copy read "to an standard".

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"(I) IN GENERAL.—Each nursing facility shall be subject to a standard survey not later than 15 months after the date of the previous standard survey conducted under this subparagraph. The statewide [69] average interval between standard surveys of a nursing facility shall not exceed 12 months.

"(II) SPECIAL SURVEYS.—If not otherwise conducted under subclause (I), a standard survey (or an abbreviated standard survey) may be conducted within 2 months of any change of ownership, administration, management of a nursing facility, or director of nursing in order to determine whether the change has resulted in any decline in the quality of care furnished in the facility.

"(B) EXTENDED SURVEYS.—

"(i) IN GENERAL.—Each nursing facility which is found, under a standard survey, to have provided substandard quality of care shall be subject to an extended survey. Any other facility may, at the Secretary's or State's discretion, be subject to such an extended survey (or a partial extended survey).

"(ii) TIMING.—The extended survey shall be conducted immediately after the standard survey (or, if not practical, not later than 2 weeks after the date of completion of the standard survey).

"(iii) CONTENTS.—In such an extended survey, the survey team shall review and identify the policies and procedures which produced such substandard quality of care and shall determine whether the facility has complied with all the requirements described in subsections (b), (c), and (d). Such review shall include an expansion of the size of the sample of residents' assessments reviewed and a review of the staffing, of in-service training, and, if appropriate, of contracts with consultants.

"(iv) CONSTRUCTION.—Nothing in this paragraph shall be construed as requiring an extended or partial extended survey as a prerequisite to imposing a sanction against a facility under subsection (h) on the basis of findings in a standard survey.

"(C) SURVEY PROTOCOL.—Standard and extended surveys shall be conducted—

"(i) based upon a protocol which the Secretary has developed, tested, and validated by not later than January 1, 1990, and

"(ii) by individuals, of a survey team, who meet such minimum qualifications as the Secretary establishes by not later than such date.

The failure of the Secretary to develop, test, or validate such protocols or to establish such minimum qualifications shall not relieve any State of its responsibility (or the Secretary of the Secretary's responsibility) to conduct surveys under this subsection.

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"(D) CONSISTENCY OF SURVEYS.—Each State shall implement programs to measure and reduce inconsistency in the application of survey results among surveyors.

"(E) SURVEY TEAMS.—

"(i) IN GENERAL.—Surveys under this subsection shall be conducted by a multidisciplinary team of professionals (including a registered professional nurse).

"(ii) PROHIBITION OF CONFLICTS OF INTEREST.—A State may not use as a member of a survey team under this

[69] Copy read "Statewide".

subsection an individual who is serving (or has served within the previous 2 years) as a member of the staff of, or as a consultant to, the facility surveyed respecting compliance with the requirements of subsections (b), (c), and (d), or who has a personal or familial financial interest in the facility being surveyed.

"(iii) TRAINING.—The Secretary shall provide for the comprehensive training of State and Federal surveyors in the conduct of standard and extended surveys under this subsection, including the auditing of resident assessments and plans of care. No individual shall serve as a member of a survey team unless the individual has successfully completed a training and testing program in survey and certification techniques that has been approved by the Secretary.

"(3) VALIDATION SURVEYS.—

"(A) IN GENERAL.—The Secretary shall conduct onsite surveys of a representative sample of nursing facilities in each State, within 2 months of the date of surveys conducted under paragraph (2) by the State, in a sufficient number to allow inferences about the adequacies of each State's surveys conducted under paragraph (2). In conducting such surveys, the Secretary shall use the same survey protocols as the State is required to use under paragraph (2). If the State has determined that an individual nursing facility meets the requirements of subsections (b), (c), and (d), but the Secretary determines that the facility does not meet such requirements, the Secretary's determination as to the facility's noncompliance with such requirements is binding and supersedes that of the State survey.

"(B) SCOPE.—With respect to each State, the Secretary shall conduct surveys under subparagraph (A) each year with respect to at least 5 percent of the number of nursing facilities surveyed by the State in the year, but in no case less than 5 nursing facilities in the State.

"(C) REDUCTION IN ADMINISTRATIVE COSTS FOR SUBSTANDARD PERFORMANCE.—If the Secretary finds, on the basis of such surveys, that a State has failed to perform surveys as required under paragraph (2) or that a State's survey and certification performance otherwise is not adequate, the Secretary may provide for the training of survey teams in the State and shall provide for a reduction of the payment otherwise made to the State under section 1903(a)(2)(D) with respect to a quarter equal to 33 percent multiplied by a fraction, the denominator of which is equal to the total number of residents in nursing facilities surveyed by the Secretary that quarter and the numerator of which is equal to the total number of residents in nursing facilities which were found pursuant to such surveys to be not in compliance with any of the requirements of subsections (b), (c), and (d). A State that is dissatisfied with the Secretary's findings under this subparagraph may obtain reconsideration and review of the findings under section 1116 in the same manner as a State may seek reconsideration and review under that section of the Secretary's determination under section 1116(a)(1). 101 STAT. 1330-211

"(C) SPECIAL SURVEYS OF COMPLIANCE.—Where the Secretary has reason to question the compliance of a nursing facility with any of the requirements of subsections (b), (c), and (d), the Secretary may conduct a survey of the facility and, on that basis, make independent and binding determinations concerning the extent to which the nursing facility meets such requirements.

"(4) INVESTIGATION OF COMPLAINTS AND MONITORING NURSING FACILITY COMPLIANCE.—Each State shall maintain procedures and adequate staff to—

"(A) investigate complaints of violations of requirements by nursing facilities, and

"(B) monitor, on-site, on a regular, as needed basis, a nursing facility's compliance with the requirements of subsections (b), (c), and (d), if—

"(i) the facility has been found not to be in compliance with such requirements and is in the process of correcting deficiencies to achieve such compliance;

"(ii) the facility was previously found not to be in compliance with such requirements, has corrected deficiencies to achieve such compliance, and verification of continued compliance is indicated; or

"(iii) the State has reason to question the compliance of the facility with such requirements.

A State may maintain and utilize a specialized team (including an attorney, an auditor, and appropriate health care professionals) for the purpose of identifying, surveying, gathering and preserving evidence, and carrying out appropriate enforcement actions against chronically substandard nursing facilities.

"(5) DISCLOSURE OF RESULTS OF INSPECTIONS AND ACTIVITIES.—

"(A) PUBLIC INFORMATION.—Each State, and the Secretary, shall make available to the public—

"(i) information respecting all surveys and certifications made respecting nursing facilities, including statements of deficiencies and plans of correction,

"(ii) copies of cost reports of such facilities filed under this title or under title XVIII,

"(iii) copies of statements of ownership under section 1124, and

"(iv) information disclosed under section 1126.

"(B) NOTICE TO OMBUDSMAN.— Each State shall notify the State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) of the State's findings of noncompliance with any of the requirements of subsections (b), (c), and (d), with respect to a nursing facility in the State.

"(C) NOTICE TO PHYSICIANS AND NURSING FACILITY ADMINISTRATOR LICENSING BOARD.—If a State finds that a nursing facility has provided substandard quality of care, the State shall notify—

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"(i) the attending physician of each resident with respect to which such finding is made, and

"(ii) any State board responsible for the licensing of the nursing facility administrator of the facility.

"(D) ACCESS TO FRAUD CONTROL UNITS.—Each State shall provide its State medicaid fraud and abuse control unit (established under section 1903(q)) with access to all information of the State agency responsible for surveys and certifications under this subsection.".

(b) POSTING SURVEY RESULTS.—Section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended by inserting, after "readily available form and place" in the fifth sentence, the following: ", and require (in the case of skilled nursing facilities) the posting in a place readily accessible to patients (and patients' representatives),".

(c) INCREASING MATCHING PERCENTAGE FOR NURSING HOME SURVEY AND CERTIFICATION ACTIVITIES.—(1) Section 1903(a)(2) of such Act (42 U.S.C. 1396b(a)(2)), as amended by this title, is further amended by adding at the end the following new subparagraph:

"(D) for each calendar quarter during—

"(i) fiscal year 1991, an amount equal to 90 percent,

"(ii) fiscal year 1992, an amount equal to 85 percent,

"(iii) fiscal year 1993, an amount equal to 80 percent, and

"(iv) fiscal year 1994 and thereafter, an amount equal to 75 percent,

of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to State activities under section 1919(g); plus".

(2) Section 1903(r) of such Act (42 U.S.C. 1396b(r)) is amended by striking "paragraphs (2)" each place it appears and inserting "paragraphs (2)(A)".

(3) For purposes of section 1903(a) of the Social Security Act, proper expenses incurred by a State for medical review by independent professionals of the care provided to residents of nursing facilities who are entitled to medical assistance under title XIX of such Act shall be reimbursable as expenses necessary for the proper and efficient administration of the State plan under that title. 42 USC 1396b note.

(d) REVISION OF PENALTY PROVISIONS.—(1) Section 1903(g) of such Act (42 U.S.C. 1396b(g)) is amended—

(A) in paragraph (1)—

(i) by striking "or intermediate care facility services" the first place it appears and inserting "or services in an intermediate care facility for the mentally retarded",

(ii) by striking ", skilled nursing facility services for 30 days,",

(iii) by striking ", skilled nursing facility services, or intermediate care facility services" and inserting "or services in an intermediate care facility for the mentally retarded",

(iv) by striking ", skilled nursing facilities, and intermediate care facilities" and inserting "and intermediate care facilities for the mentally retarded";

(B) in paragraph (4)(B), by striking ", skilled nursing facilities, and intermediate care facilities" and inserting "and intermediate care facilities for the mentally retarded";

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(C) in paragraph (6)—

(i) by striking subparagraph (B),

(ii) in subparagraph (C), by striking "intermediate care facility services" and inserting "services in an intermediate care facility for the mentally retarded", and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(D) by striking paragraph (7).

(2) Section 1902(a)(31) of such Act (42 U.S.C. 1396a(a)(31)) is amended—

(A) in the matter before subparagraph (A), by striking "skilled nursing facility services" and all that follows through "where" and inserting "services in an intermediate care facility for the mentally retarded (where", and

(B) in subparagraph (B), by striking "skilled nursing or intermediate care facility" and inserting "intermediate care facility for the mentally retarded".

(3) Section 1902(a)(33)(B) of such Act (42 U.S.C. 1396a(a)(33)(B)) is amended by inserting ", except as provided in section 1919(d)," after "(B) that".

(4) The amendments made by this subsection shall not apply to a State until such date (not earlier than October 1, 1990) as of which the Secretary determines that— Effective date. 42 USC 1396a note.

(A) the State has specified the resident assessment instrument under section 1919(e)(5) of the Social Security Act, and

(B) the State has begun conducting surveys under section 1919(g)(2) of such Act.

(e) MISCELLANEOUS CONFORMING AMENDMENTS.—(1) Section 1902(a)(44) of such Act (42 U.S.C. 1396a(a)(44)) is amended—

(A) in the matter before subparagraph (A), by striking "skilled nursing facility services, intermediate care facility services" and inserting "services in an intermediate care facility for the mentally retarded", and

(B) in subparagraph (A), by striking "that are intermediate care facility services in an institution for the mentally re-

tarded" and inserting "that are services in an intermediate care facility for the mentally retarded".

(2) Section 1903(a)(7) of such Act (42 U.S.C. 1396b(a)(7)) is amended by inserting "subject to section 1919(g)(3)(B)," after "(7)".

(3) Section 1910 of such Act (42 U.S.C. 1396i) is amended—

(A) by striking "SKILLED NURSING FACILITIES AND" in the heading,

(B) by striking subsection (a), and

(C) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(4) Section 1866(c) of such Act (42 U.S.C. 1395cc(c)) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

SEC. 4213. ENFORCEMENT PROCESS.

(a) IN GENERAL.—Section 1919 of the Social Security Act, as inserted by section 4201 and amended by section 4202, is further amended by adding at the end the following new subsection:

"(h) ENFORCEMENT PROCESS.—

"(1) IN GENERAL.—If a State finds, on the basis of a standard, extended, or partial extended survey under subsection (g)(2) or otherwise, that a nursing facility no longer meets a requirement of subsection (b), (c), or (d), and further finds that the facility's deficiencies—

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"(A) immediately jeopardize the health or safety of its residents, the State shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in paragraph (2)(A)(iii), or terminate the facility's participation under the State plan and may provide, in addition, for one or more of the other remedies described in paragraph (2); or

"(B) do not immediately jeopardize the health or safety of its residents, the State may—

"(i) terminate the facility's participation under the State plan,

"(ii) provide for one or more of the remedies described in paragraph (2), or

"(iii) do both.

Nothing in this paragraph shall be construed as restricting the remedies available to a State to remedy a nursing facility's deficiencies. If a State finds that a nursing facility meets the requirements of subsections (b), (c), and (d), but, as of a previous period, did not meet such requirements, the State may provide for a civil money penalty under paragraph (2)(A)(i) for the days in which it finds that the facility was not in compliance with such requirements.

Regulations.

"(2) SPECIFIED REMEDIES.—

"(A) LISTING.—Except as provided in subparagraph (B)(ii), each State shall establish by law (whether statute or regulation) at least the following remedies:

"(i) Denial of payment under the State plan with respect to any individual admitted to the nursing facility involved after such notice to the public and to the facility as may be provided for by the State.

"(ii) A civil money penalty assessed and collected, with interest, for each day in which the facility is or was out of compliance with a requirement of subsection (b), (c), or (d). Funds collected by a State as a result of imposition of such a penalty (or as a result of the imposition by the State of a civil money penalty for activities described in subsections (b)(3)(B)(ii)(I), (b)(3)(B)(ii)(II), or (g)(2)(A)(i)) shall be applied to the protection of the health or property of residents of nursing facilities that the State or the Secretary finds deficient, including payment for the costs of relocation

of residents to other facilities, maintenance of operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds lost.

"(iii) The appointment of temporary management to oversee the operation of the facility and to assure the health and safety of the facility's residents, where there is a need for temporary management while—

"(I) there is an orderly closure of the facility, or

"(II) improvements are made in order to bring the facility into compliance with all the requirements of subsections (b), (c), and (d).

The temporary management under this clause shall not be terminated under subclause (II) until the State has determined that the facility has the management capability to ensure continued compliance with all the requirements of subsections (b), (c), and (d). 101 STAT. 1330-215

"(iv) The authority, in the case of an emergency, to close the facility, to transfer residents in that facility to other facilities, or both.

The State also shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the remedies and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies. In addition, the State may provide for other specified remedies, such as directed plans of correction.

"(B) DEADLINE AND GUIDANCE.—(i) Except as provided in clause (ii), as a condition for approval of a State plan for calendar quarters beginning on or after October 1, 1989, each State shall establish the remedies described in clauses (i) through (iv) of subparagraph (A) by not later than October 1, 1989. The Secretary shall provide, through regulations or otherwise by not later than October 1, 1988, guidance to States in establishing such remedies; but the failure of the Secretary to provide such guidance shall not relieve a State of the responsibility for establishing such remedies. Regulations.

"(ii) A State may establish alternative remedies (other than termination of participation) other than those described in clauses (i) through (iv) of subparagraph (A), if the State demonstrates to the Secretary's satisfaction that the alternative remedies are as effective in deterring noncompliance and correcting deficiencies as those described in subparagraph (A).

"(C) ASSURING PROMPT COMPLIANCE.—If a nursing facility has not complied with any of the requirements of subsections (b), (c), and (d), within 3 months after the date the facility is found to be out of compliance with such requirements, the State shall impose the remedy described in subparagraph (A)(i) for all individuals who are admitted to the facility after such date.

"(D) REPEATED NONCOMPLIANCE.—In the case of a nursing facility which, on 3 consecutive standard surveys conducted under subsection (g)(2), has been found to have provided substandard quality of care, the State shall (regardless of what other remedies are provided)—

"(i) impose the remedy described in subparagraph (A)(i), and

"(ii) monitor the facility under subsection (g)(4)(B), until the facility has demonstrated, to the satisfaction of the State, that it is in compliance with the requirements of

subsections (b), (c), and (d), and that it will remain in compliance with such requirements.

"(E) FUNDING.—The reasonable expenditures of a State to provide for temporary management and other expenses associated with implementing the remedies described in clauses (iii) and (iv) of subparagraph (A) shall be considered, for purposes of section 1903(a)(7), to be necessary for the proper and efficient administration of the State plan.

"(F) INCENTIVES FOR HIGH QUALITY CARE.—In addition to the remedies specified in this paragraph, a State may establish a program to reward, through public recognition, incentive payments, or both, nursing facilities that provide the highest quality care to residents who are entitled to medical assistance under this title. For purposes of section 1903(a)(7), proper expenses incurred by a State in carrying out such a program shall be considered to be expenses necessary for the proper and efficient administration of the State plan under this title.

"(3) SECRETARIAL AUTHORITY.—

"(A) FOR STATE NURSING FACILITIES.—With respect to a State nursing facility, the Secretary shall have the authority and duties of a State under this subsection, including the authority to impose remedies described in clauses (i), (ii), and (iii) of paragraph (2)(A).

"(B) OTHER NURSING FACILITIES.—With respect to any other nursing facility in a State, if the Secretary finds that a nursing facility no longer meets a requirement of subsection (b), (c), (d), or (e), and further finds that the facility's deficiencies—

"(i) immediately jeopardize the health or safety of its residents, the Secretary shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in subparagraph (C)(iii), or terminate the facility's participation under the State plan and may provide, in addition, for one or more of the other remedies described in subparagraph (C); or

"(ii) do not immediately jeopardize the health or safety of its residents, the Secretary may impose any of the remedies described in subparagraph (C).

Nothing in this subparagraph shall be construed as restricting the remedies available to the Secretary to remedy a nursing facility's deficiencies. If the Secretary finds that a nursing facility meets such requirements but, as of a previous period, did not meet such requirements, the Secretary may provide for a civil money penalty under subparagraph (C)(ii) for the days on which he finds that the facility was not in compliance with such requirements.

"(C) SPECIFIED REMEDIES.—The Secretary may take the following actions with respect to a finding that a facility has not met an applicable requirement:

"(i) DENIAL OF PAYMENT.—The Secretary may deny any further payments to the State for medical assistance furnished by the facility to all individuals in the facility or to individuals admitted to the facility after the effective date of the finding.

"(ii) AUTHORITY WITH RESPECT TO CIVIL MONEY PENALTIES.—The Secretary may impose a civil money penalty in an amount not to exceed $10,000 for each day of noncompliance and the Secretary shall impose and collect such a penalty in the same manner as civil money penalties are imposed and collected under section 1128A.

"(iii) APPOINTMENT OF TEMPORARY MANAGEMENT.—In 101 STAT. 1330-217
consultation with the State, the Secretary may appoint temporary management to oversee the operation of the facility and to assure the health and safety of the facility's residents, where there is a need for temporary management while—

"(I) there is an orderly closure of the facility, or

"(II) improvements are made in order to bring the facility into compliance with all the requirements of subsections (b), (c), and (d).

The temporary management under this clause shall not be terminated under subclause (II) until the Secretary has determined that the facility has the management capability to ensure continued compliance with all the requirements of subsections (b), (c), and (d).

The Secretary shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the remedies and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies. In addition, the Secretary may provide for other specified remedies, such as directed plans of correction.

"(D) CONTINUATION OF PAYMENTS PENDING REMEDIATION.—The Secretary may continue payments, over a period of not longer than 6 months, under this title with respect to a nursing facility not in compliance with a requirement of subsection (b), (c), or (d), if—

"(i) the State survey agency finds that it is more appropriate to take alternative action to assure compliance of the facility with the requirements than to terminate the certification of the facility,

"(ii) the State has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action, and

"(iii) the State agrees to repay to the Federal Government payments received under this subparagraph if the corrective action is not taken in accordance with the approved plan and timetable.

The Secretary shall establish guidelines for approval of corrective actions requested by States under this subparagraph.

"(4) EFFECTIVE PERIOD OF DENIAL OF PAYMENT.—A finding to deny payment under this subsection shall terminate when the State or Secretary (or both, as the case may be) finds that the facility is in substantial compliance with all the requirements of subsections (b), (c), and (d).

"(5) IMMEDIATE TERMINATION OF PARTICIPATION FOR FACILITY WHERE STATE OR SECRETARY FINDS NONCOMPLIANCE AND IMMEDIATE JEOPARDY.—If either the State or the Secretary finds that a nursing facility has not met a requirement of subsection (b), (c), or (d), and finds that the failure immediately jeopardizes the health or safety of its residents, the State and the Secretary shall notify the other of such finding, and the State or the Secretary, respectively, shall take immediate action to remove 101 STAT. 1330-218
the jeopardy and correct the deficiencies through the remedy specified in paragraph (2)(A)(iii) or (3)(C)(iii), or terminate the facility's participation under the State plan. If the facility's participation in the State plan is terminated by either the State or the Secretary, the State shall provide for the safe and orderly transfer of the residents eligible under the State plan consistent with the requirements of subsection (c)(2).

"(6) SPECIAL RULES WHERE STATE AND SECRETARY DO NOT AGREE ON FINDING OF NONCOMPLIANCE.—

"(A) STATE FINDING OF NONCOMPLIANCE AND NO SECRETARIAL FINDING OF NONCOMPLIANCE.—If the Secretary finds that a nursing facility has met all the requirements of subsections (b), (c), and (d), but a State finds that the facility has not met such requirements and the failure does not immediately jeopardize the health or safety of its residents, the State's findings shall control and the remedies imposed by the State shall be applied.

"(B) SECRETARIAL FINDING OF NONCOMPLIANCE AND NO STATE FINDING OF NONCOMPLIANCE.—If the Secretary finds that a nursing facility has not met all the requirements of subsections (b), (c), and (d), and that the failure does not immediately jeopardize the health or safety of its residents, but the State has not made such a finding, the Secretary—

"(i) may impose any remedies specified in paragraph (3)(C) with respect to the facility, and

"(ii) shall (pending any termination by the Secretary) permit continuation of payments in accordance with paragraph (3)(D).

"(7) SPECIAL RULES FOR TIMING OF TERMINATION OF PARTICIPATION WHERE REMEDIES OVERLAP.—If both the Secretary and the State find that a nursing facility has not met all the requirements of subsections (b), (c), and (d), and neither finds that the failure immediately jeopardizes the health or safety of its residents—

"(A)(i) if both find that the facility's participation under the State plan should be terminated, the State's timing of any termination shall control so long as the termination date does not occur later than 6 months after the date of the finding to terminate;

"(ii) if the Secretary, but not the State, finds that the facility's participation under the State plan should be terminated, the Secretary shall (pending any termination by the Secretary) permit continuation of payments in accordance with paragraph (3)(D); or

"(iii) if the State, but not the Secretary, finds that the facility's participation under the State plan should be terminated, the State's decision to terminate, and timing of such termination, shall control; and

"(B)(i) if the Secretary or the State, but not both, establishes one or more remedies which are additional or alternative to the remedy of terminating the facility's participation under the State plan, such additional or alternative remedies shall also be applied, or

"(ii) if both the Secretary and the State establish one or more remedies which are additional or alternative to the remedy of terminating the facility's participation under the State plan, only the additional or alternative remedies of the Secretary shall apply.

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"(8) CONSTRUCTION.—The remedies provided under this subsection are in addition to those otherwise available under State or Federal law and shall not be construed as limiting such other remedies, including any remedy available to an individual at common law. The remedies described in clauses (i), (iii), and (iv) of paragraph (2)(A) may be imposed during the pendency of any hearing.

"(9) SHARING OF INFORMATION.—Notwithstanding any other provision of law, all information concerning nursing facilities required by this section to be filed with the Secretary or a State agency shall be made available to Federal or State employees for purposes consistent with the effective administration of programs established under this title and title XVIII, including investigations by State medicaid fraud control units.".

(b) CONFORMING AMENDMENTS.—(1) Section 1902 of such Act (42 U.S.C. 1396a) is amended by striking subsection (i).

(2) Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended by striking the period at the end of paragraph (7) and inserting "; or" and by adding at the end the following new paragraph:

"(8) with respect to any amount expended for medical assistance for nursing facility services to reimburse (or otherwise compensate) a nursing facility for payment of a civil money penalty imposed under section 1919(h).".

SEC. 4214. EFFECTIVE DATES.

42 USC 1396r note.

(a) NEW REQUIREMENTS AND SURVEY AND CERTIFICATION PROCESS.—Except as otherwise specifically provided in section 1919 of the Social Security Act, the amendments made by sections 4211 and 4212 (relating to nursing facility requirements and survey and certification requirements) shall apply to nursing facility services furnished on or after October 1, 1990, without regard to whether regulations to implement such amendments are promulgated by such date; except that section 1902(a)(28)(B) of the Social Security Act (as amended by section 4211(b) of this Act), relating to requiring State medical assistance plans to specify the services included in nursing facility services, shall apply to calendar quarters beginning more than 6 months after the date of the enactment of this Act, without regard to whether regulations to implement such section are promulgated by such date.

(b) ENFORCEMENT.—(1) Except as otherwise specifically provided in section 1919 of the Social Security Act, the amendments made by section 4213 of this Act apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after the date of the enactment of this Act, without regard to whether regulations to implement such amendments are promulgated by such date.

(c) TRANSITIONAL RULE.—In applying the amendments made by this part for services furnished before October 1, 1990—

(A) any reference to a nursing facility is deemed a reference to a skilled nursing facility or intermediate care facility (other than an intermediate care facility for the mentally retarded), and

(B) with respect to such a skilled nursing facility or intermediate care facility, any reference to a requirement of subsection (b), (c), or (d), is deemed a reference to the provisions of section 1861(j) or section 1905(c), respectively, of the Social Security Act.

101 STAT. 1330-220

(d) WAIVER OF PAPERWORK REDUCTION.—Chapter 35 of title 44, United States Code, shall not apply to information required for purposes of carrying out this part and implementing the amendments made by this part.

SEC. 4215. ANNUAL REPORT.

42 USC 1396r note.

The Secretary of Health and Human Services shall report to the Congress annually on the extent to which nursing facilities are complying with the requirements of subsections (b), (c), and (d) of section 1919 of the Social Security Act (as added by the amendments made by this part) and the number and type of enforcement actions taken by States and the Secretary under section 1919(h) of such Act (as added by section 4213 of this Act).

SEC. 4216. CONSTRUCTION.

42 USC 1396r.

Section 1919 of the Social Security Act is amended by adding at the end the following new subsection:

"(i) CONSTRUCTION.—Where requirements or obligations under this section are identical to those provided under section 1819 of this Act, the fulfillment of those requirements or obligations under section 1819 shall be considered to be the fulfillment of the corresponding requirements or obligations under this section.".

Effective date.
42 USC 1396r-3 note.

SEC. 4217. FINAL REGULATIONS WITH RESPECT TO PLANS OF CORRECTION OR REDUCTION.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate final regulations to implement the amendments made by section 9516 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

100 Stat. 82.

(b) The regulations promulgated under paragraph (1) shall be effective as if promulgated on the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985.

SEC. 4218. MEDICAID CERTIFICATIONS AND RECERTIFICATIONS FOR CERTAIN SERVICES.

(a) IN GENERAL.—Section 1902(a)(44) of the Social Security Act (42 U.S.C. 1396a(a)(44)) is amended—

(1) in subparagraph (A)—

(A) by striking "physician certifies" and inserting "physician (or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician) certifies", and

(B) by striking "the physician, or a physician assistant or nurse practitioner under the supervision of a physician," and inserting "a physician, a physician assistant under the supervision of a physician, or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician,"; and

(2) in subparagraph (B), by striking "a physician;" and inserting "a physician, or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician;".

101 STAT. 1330-221

42 USC 1396a note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to certifications or recertifications during the period beginning on July 1, 1988, and ending on October 1, 1990.

Subtitle D—Vaccine Compensation

Vaccine Compensation Amendments of 1987.

SEC. 4301. SHORT TITLE, REFERENCE.

42 USC 201 note.

(a) SHORT TITLE.—This subtitle may be cited as the "Vaccine Compensation Amendments of 1987".

(b) REFERENCE.—Whenever in this subtitle (other than in section 4302(a)) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 4302. EFFECTIVE DATE.

(a) IN GENERAL.—Section 323(a) of the National Childhood Vaccine Injury Act of 1986 (42 U.S.C. 300aa-1 note) is amended by striking out "Subtitle 2 of such title and this title shall take effect on the effective date of a tax" and all that follows in that section and inserting in lieu thereof "parts A and B of subtitle 2 of such title shall take effect on October 1, 1988 and parts C and D of such title and this title shall take effect on the date of the enactment of the Vaccine Compensation Amendments of 1987.".

(b) REFERENCES.—

42 USC 300aa-19.

(1) Sections 2111, 2115, 2119(a), 2122, 2123, 2125, 2126, 2127, and 2128 (42 U.S.C. 300aa-11, 300aa-15, 300aa-199a), 300aa-22,

300aa-23, 300aa-25, 300aa-26, 300aa-27, 300aa-28) are each amended by striking out "effective date of this subtitle" each place it appears and inserting in lieu thereof "effective date of this part".

(2) Sections 2111(a)(5)(A), 2115(e)(2) and 2116 (42 U.S.C. 300aa-11(a)(5)(A), 300aa-15(e)(2), 300a-16) are each amended by striking out "effective date of this title" each place it appears and inserting in lieu thereof "effective date of this part". 42 USC 300aa-16.

SEC. 4303. COMPENSATION.

(a) SOURCE.—Section 2115 (42 U.S.C. 300aa-15) is amended by adding at the end the following:

"(i) SOURCE OF COMPENSATION.—

"(1) Payment of compensation under the Program to a petitioner for a vaccine-related injury or death associated with the administration of a vaccine before the effective date of this part shall be made from appropriations under subsection (i).

"(2) Payment of compensation under the Program to a petitioner for a vaccine-related injury or death associated with the administration of a vaccine on or after the effective date of this part shall be made from the Vaccine Injury Compensation Trust Fund established under section 9510 of the Internal Revenue Code of 1986.". 101 STAT. 1330-222

(b) AUTHORIZATION.—Section 2115 (42 U.S.C. 300aa-15) (as amended by subsection (a)) is amended by adding at the end the following:

"(j) AUTHORIZATION.—For the payment of compensation under the Program to a petitioner for a vaccine-related injury or death associated with the administration of a vaccine before the effective date of this part there are authorized to be appropriated $80,000,000 for fiscal year 1989, $80,000,000 for fiscal year 1990, $80,000,000 for fiscal year 1991, and $80,000,000 for fiscal year 1992. Amounts appropriated under this subsection shall remain available until expended.".

(c) MINIMUM.—Section 2115(a)(1) (42 U.S.C. 300a-15(a)(1)) is amended by striking out the last sentence of subparagraphs A) and (B). 42 USC 300aa-15.

(d) LUMP SUM.—

(1) Section 2115 (42 U.S.C. 300aa-15) is amended—

(A) by striking out the last two sentences after paragraph (4) in subsection (a), and

(B) by adding at the end of the first subsection (f) the following:

"(4)(A) Except as provided in subparagraph (B), payment of compensation under the Program shall be made in a lump sum determined on the basis of the net present value of the elements of the compensation.

"(B) In the case of a payment of compensation under the Program to a petitioner for a vaccine-related injury or death associated with the administration of a vaccine before the effective date of this part the compensation shall be paid in 4 equal annual installments. If the appropriations under subsection (i) are insufficient to make a payment of an annual installment, section 2111(a) shall not apply to a civil action for damages brought by the petitioner entitled to the payment.".

(2)(A) Subsections (e) and (f) of section 2112 (42 U.S.C. 300a-12) are repealed and subsection (g) of such section is redesignated as subsection (e). 42 USC 300aa-12.

(B) Section 2118 (42 U.S.C. 300aa-18) is repealed.

(e) LIMIT.—Section 2115(b) (42 U.S.C. 300aa-15(b)) is amended by striking out "shall only include the compensation described in paragraphs (1)(A) and (2) of subsection (a)" and inserting in lieu thereof the following: "may not include the compensation described

in paragraph (1)(B) of subsection (a) and may include attorneys' fees and other costs included in a judgment under subsection (e), except that the total amount that may be paid as compensation under paragraphs (3) and (4) of subsection (a) and included as attorneys' fees and other costs under subsection (e) may not exceed $30,000".

(f) TERMINATION OF PROGRAM.—Part D of title XXI is amended by adding at the end the following:

"TERMINATION OF PROGRAM

42 USC 300aa-34.

"SEC. 2134. (a) REVIEWS.—The Secretary shall review the number of awards of compensation made under the program to petitioners under section 2111 for vaccine-related injuries and deaths associated with the administration of vaccines on or after the effective date of this part as follows:

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"(1) The Secretary shall review the number of such awards made in the 12-month period beginning on the effective date of this part.

"(2) At the end of each 3-month period beginning after the expiration of the 12-month period referred to in paragraph (1) the Secretary shall review the number of such awards made in the 3-month period.

"(b) REPORT.—

"(1) If in conducting a review under subsection (a) the Secretary determines that at the end of the period reviewed the total number of awards made by the end of that period and accepted under section 2121(a) exceeds the number of awards listed next to the period reviewed in the table in paragraph (2)—

"(A) the Secretary shall notify the Congress of such determination, and

"(B) beginning 180 days after the receipt by Congress of a notification under paragraph (1), no petition for a vaccine-related injury or death associated with the administration of a vaccine on or after the effective date of this part may be filed under section 2111.

Section 2111(a) and part B shall not apply to civil actions for damages for a vaccine-related injury or death for which a petition may not be filed because of subparagraph (B).

"(2) The table referred to in paragraph (1) is as follows:

[10] "Period reviewed:	Total number of awards by the end of the period reviewed
12 months after the effective date of part	150
13th through the 15th month after such date	188
16th through the 18th month after such date	225
19th through the 21st month after such date	263
22nd through the 24th month after such date	300
25th through the 27th month after such date	338
28th through the 30th month after such date	375
31st through the 33rd month after such date	413
34th through the 36th month after such date	450
37th through the 39th month after such date	488
40th through the 42nd month after such date	525
43rd through the 45th month after such date	563
46th through the 48th month after such date	600.".

42 USC 300aa-15.

(g) TECHNICAL.—Section 2115 (42 U.S.C. 300a-15) is amended by redesignating the second subsection (f) and subsection (g) as subsections (g) and (h), respectively.

SEC. 4304. PETITIONS.

(a) APPLICATION OF LIMITS.—Section 2111(a) (42 U.S.C. 300aa-11) is amended by adding at the end the following:

"(8) This subsection applies only to a person who has sustained a vaccine-related injury or death and who is qualified to file a petition for compensation under the Program.".

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[10] Copy read "Period reviewed:".

(b) QUALIFICATION.—

(1) Section 2111(b)(1) (42 U.S.C. 300a-11(b)(1)(A)) is amended by striking out "may file" and inserting in lieu thereof "may, if the person meets the requirements of subsection (c)(1), file". 42 USC 300aa-11.

(2) Section 2111(c)(1)(D) (42 U.S.C. 300a-11(c)(1)(D)) is amended (A) by striking out "for more than 1 year" and inserting in lieu thereof "for more than 6 months", (B) by striking out ", (ii)" and inserting in lieu thereof "and", and (C) by striking out "(iii)" and inserting in lieu thereof "(ii)". 101 STAT. 1330-224

(c) WITHDRAWAL.—Section 2121 (42 U.S.C. 300a-21) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following: 42 USC 300aa-21.

"(b) WITHDRAWAL OF PETITION.—If the United States Claims Court fails to enter a judgment under section 2112 on a petition filed under section 2111 within 365 days after the date on which the petition was filed, the petitioner may submit to the court a notice in writing withdrawing the petition. Such a notice shall be filed not later than 90 days after the expiration of such 365-day period. A person who has submitted a notice under this subsection may, notwithstanding section 2111(a)(2), thereafter maintain a civil action for damages in a State or Federal court without regard to part B and consistent with otherwise applicable law.".

SEC. 4305. CITIZEN'S ACTIONS.

Section 2131(c) (42 U.S.C. 300a-31(c)) [71] is amended by striking out "to any party, whenever the court determines that such award is appropriate" and inserting in lieu thereof "to any plaintiff who substantially prevails on one or more significant issues in the action". 42 USC 300aa-31.

SEC. 4306. VACCINE ADMINISTRATORS. 42 USC 300aa-11.

Section 2111(a) (42 U.S.C. 300a-11) is amended by striking out "vaccine manufacturer" each place it appears and inserting in lieu thereof "vaccine administrator or manufacturer".

SEC. 4307. COURT JURISDICTION.

Subtitle 2 of title XXI is amended as follows:

(1) Section 2111(a)(1) (42 U.S.C. 300aa-11(a)(1)) is amended by striking out "with the United States district court for the district in which the petitioner resides or the injury or death occurred" and inserting in lieu thereof "with the United States Claims Court".

(2) Section 2111(a)(2)(A)(ii) (42 U.S.C. 300aa-11(a)(2)(A)(ii)) is amended by striking out "a district court of the United States" and inserting in lieu thereof "the United States Claims Court".

(3) Section 2112 (42 U.S.C. 300aa-12) is amended—

(A) in subsection (a), by striking out "district courts of the United States" and inserting in lieu thereof "United States Claims Court" and by striking out "the courts" and inserting in lieu thereof "the court",

(B) in subsection (c)(1), by striking out "the district court of the United States in which the petition is filed" and inserting in lieu thereof "the United States Claims Court", and

(C) in subsection (g), by striking out "a district court of the United States" and inserting in lieu thereof "the United States Claims Court" and by striking out "for the circuit in which the court is located" and inserting in lieu thereof "for the Federal Circuit".

(4) Section 2113(c) (42 U.S.C. 300aa-13(c)) is amended by striking out "a district court of the United States" and inserting in lieu thereof "the United States Claims Court".

[71] Copy read "300a-31(c)".

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(5) Section 2115(e)(1) (42 U.S.C. 300aa-15(e)(1)) is amended by striking out "of a court" and inserting in lieu thereof "of the United States Claims Court".

(6) Paragraph (2) of subsection (f) of section 2115 (42 U.S.C. 300aa-15) is amended by striking out "district court of the United States" and inserting in lieu thereof "United States Claims Court".

(7) Section 2117(a) (42 U.S.C. 300aa-17(a)) is amended by striking out "(1)", by running in the text of paragraph (1) into the subsection heading, and by striking out paragraph (2).

(8) Section 2121(a) (42 U.S.C. 300aa-21(a)) is amended by striking out "a district court of the United States" and inserting in lieu thereof "the United States Claims Court" and by striking out "a court" each place it occurs and inserting in lieu thereof "the court".

(9) Section 2123(e) (42 U.S.C. 300aa-23(e)) is amended by striking out "a district court of the United States" and inserting in lieu thereof "the United States Claims Court".

Subtitle E—Rural Health

SEC. 4401. OFFICE OF RURAL HEALTH POLICY.

Title VII of the Social Security Act is amended by adding at the end thereof the following new section:

"OFFICE OF RURAL HEALTH POLICY

Establishment.
42 USC 912.

"SEC. 711. (a) There shall be established in the Department of Health and Human Services (in this section referred to as the 'Department') [72] an Office of Rural Health Policy (in this section referred to as the 'Office'). The Office shall be headed by a Director, who shall advise the Secretary on the effects of current policies and proposed statutory, regulatory, administrative, and budgetary changes in the programs established under titles XVIII and XIX on the financial viability of small rural hospitals, the ability of rural areas (and rural hospitals in particular) to attract and retain physicians and other health professionals, and access to (and the quality of) health care in rural areas.

"(b) In addition to advising the Secretary with respect to the matters specified in subsection (a), the Director, through the Office, shall—

"(1) oversee compliance with the requirements of section 1102(b) of this Act and section 4083 of the Omnibus Budget Reconciliation Act of 1987,

"(2) establish and maintain a clearinghouse for collecting and disseminating information on—

"(A) rural health care issues,

"(B) research findings relating to rural health care, and

"(C) innovative approaches to the delivery of health care in rural areas,

"(3) coordinate the activities within the Department that

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relate to rural health care, and

"(4) provide information to the Secretary and others in the Department with respect to the activities, of other Federal departments and agencies, that relate to rural health care.".

SEC. 4402. IMPACT ANALYSES OF MEDICARE AND MEDICAID RULES AND REGULATIONS ON SMALL RURAL HOSPITALS.

(a) IN GENERAL.—Section 1102 of the Social Security Act (42 U.S.C. 1302) is amended—

(1) by inserting "(a)" after "SEC. 1102.", and

[72] Copy read " "Departme..t")".

(2) by adding at the end thereof the following new subsection:

"(b)(1) Whenever the Secretary publishes a general notice of proposed rulemaking for any rule or regulation proposed under title XVIII, title XIX, or part B of this title that may have a significant impact on the operations of a substantial number of small rural hospitals, the Secretary shall prepare and make available for public comment an initial regulatory impact analysis. Such analysis shall describe the impact of the proposed rule or regulation on such hospitals and shall set forth, with respect to small rural hospitals, the matters required under section 603 of title 5, United States Code, to be set forth with respect to small entities. The initial regulatory impact analysis (or a summary) shall be published in the Federal Register at the time of the publication of general notice of proposed rulemaking for the rule or regulation.

Federal Register, publication.

"(2) Whenever the Secretary promulgates a final version of a rule or regulation with respect to which an initial regulatory impact analysis is required by paragraph (1), the Secretary shall prepare a final regulatory impact analysis with respect to the final version of such rule or regulation. Such analysis shall set forth, with respect to small rural hospitals, the matters required under section 604 of title 5, United States Code, to be set forth with respect to small entities. The Secretary shall make copies of the final regulatory impact analysis available to the public and shall publish, in the Federal Register at the time of publication of the final version of the rule or regulation, a statement describing how a member of the public may obtain a copy of such analysis.

Federal Register, publication.

"(3) If a regulatory flexibility analysis is required by chapter 6 of title 5, United States Code, for a rule or regulation to which this subsection applies, such analysis shall specifically address the impact of the rule or regulation on small rural hospitals.".

(b) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to regulations proposed more than 30 days after the date of the enactment of this Act.

42 USC 1302 note.

SEC. 4403. SET ASIDE FOR EXPERIMENTS AND DEMONSTRATION PROJECTS RELATING TO RURAL HEALTH CARE ISSUES.

42 USC 1395b-1 note.

(a) SET ASIDE.—Not less than ten percent of the total amounts expended in each fiscal year by the Secretary of Health and Human Services (in this section referred to as the "Secretary") after October 1, 1988, with respect to experiments and demonstration projects authorized by section 402 of the Social Security Amendments of 1967 and the experiments and demonstration projects authorized by the Social Security Amendments of 1972 shall be expended for experiments and demonstration projects relating exclusively or substantially to rural health issues, including (but not limited to) the impact of the payment methodology under section 1886(d) of the Social Security Act on the financial viability of small rural hospitals, the effect of medicare payment policies on the ability of rural areas (and rural hospitals in particular) to attract and retain physicians and other health professionals, the appropriateness of medicare conditions of participation and staffing requirements for small rural hospitals, and the impact of medicare policies on access to (and the quality of) health care in rural areas.

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(b) AGENDA.—The Secretary of Health and Human Services shall establish an agenda of experiments and demonstration projects, relating exclusively or substantially to rural health issues, that are in progress or have been proposed, and shall include such agenda in the annual report submitted pursuant to section 1875(b) of the Social Security Act. The agenda shall be accompanied by a statement setting forth the amounts that have been obligated and expended with respect to such experiments and projects in the current and most recently completed fiscal years.

TITLE V—ENERGY AND ENVIRONMENT PROGRAMS

Subtitle A—Nuclear Waste Amendments

Nuclear Waste Policy Amendments Act of 1987.
42 USC 10101 note.

SEC. 5001. SHORT TITLE.

This subtitle may be cited as the "Nuclear Waste Policy Amendments Act of 1987".

SEC. 5002. DEFINITIONS.

Section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101) is amended by adding at the end the following new paragraphs:

"(30) The term 'Yucca Mountain site' means the candidate site in the State of Nevada recommended by the Secretary to the President under section 112(b)(1)(B) on May 27, 1986.

"(31) The term 'affected unit of local government' means the unit of local government with jurisdiction over the site of a repository or a monitored retrievable storage facility. Such term may, at the discretion of the Secretary, include units of local government that are contiguous with such unit.

"(32) The term 'Negotiator' means the Nuclear Waste Negotiator.

"(33) As used in title IV, the term 'Office' means the Office of the Nuclear Waste Negotiator established under title IV of this Act.

"(34) The term 'monitored retrievable storage facility' means the storage facility described in section 141(b)(1).".

PART A—REDIRECTION OF THE NUCLEAR WASTE PROGRAM

SEC. 5011. FIRST REPOSITORY.

(a) SITE SPECIFIC ACTIVITIES.—Title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10121-10171) is amended by adding at the end the following new subtitle:

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"SUBTITLE E—REDIRECTION OF THE NUCLEAR WASTE PROGRAM

"SELECTION OF YUCCA MOUNTAIN SITE

42 USC 10172.

"SEC. 160. (a) IN GENERAL.—(1) The Secretary shall provide for an orderly phase-out of site specific activities at all candidate sites other than the Yucca Mountain site.

"(2) The Secretary shall terminate all site specific activities (other than reclamation activities) at all candidate sites, other than the Yucca Mountain site, within 90 days after the date of enactment of the Nuclear Waste Policy Amendments Act of 1987.

"(b) Effective on the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, the State of Nevada shall be eligible to enter into a benefits agreement with the Secretary under section 170.".

(b) SITE RECOMMENDATION TO THE PRESIDENT.—Section 112(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10132(b)) is amended by—

(1) striking out paragraph (1)(C) and redesignating the subsequent subparagraphs accordingly; and

(2) in subparagraph (C) [73] (as redesignated) by striking "subparagraphs (B) and (C)" and inserting "subparagraph (B)".

(c) TERMINATION OF CANDIDATE SITE SCREENING.—Section 112 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10132) is amended

[73] Copy read "(C), (as".

by striking all of subsection (d) and redesignating subsequent subsections accordingly.

(d) TIMELY SITE CHARACTERIZATION.—Section 112 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10132) is amended by striking all of subsection (f) and redesignating subsequent subsections accordingly.

(e) SITE CHARACTERIZATION.—Section 113(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10133(a)) is amended—

(1) by striking "State involved" and all that follows through "tribe involved" and inserting "State of Nevada"; and

(2) by striking "beginning" and all that follows through "geological media" and inserting "at the Yucca Mountain site".

(f) COMMISSION AND STATES.—Section 113(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10133(b)) is amended—

(1) in paragraph (1)—

(A) by striking "any candidate site" and inserting "the Yucca Mountain site";

(B) by striking "either" and all that follows through "may be" and insert "the Governor or legislature of the State of Nevada";

(2) in paragraph (2), by striking "at any candidate site" and inserting "at the Yucca Mountain site"; and

(3) in paragraph (3)—

(A) by striking "a candidate site" and inserting "the Yucca Mountain site";

(B) by striking "either"; and

(C) by striking "the State" and all that follows through "may be" and inserting "the State of Nevada".

(g) RESTRICTIONS.—Section 113(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10133(c)) is amended—

(1) in paragraph (1)— 101 STAT. 1330-229

(A) by striking "any candidate site" and inserting "the Yucca Mountain site"; and

(B) by striking "such candidate site" each place it appears and inserting "such site";

(2) in paragraph (2), by striking "candidate" each place it appears; and

(3) by striking paragraphs (3) and (4) and inserting the following:

"(3) If the Secretary at any time determines the Yucca Mountain site to be unsuitable for development as a repository, the Secretary shall—

"(A) terminate all site characterization activities at such site;

"(B) notify the Congress, the Governor and legislature of Nevada of such termination and the reasons for such termination;

"(C) remove any high-level radioactive waste, spent nuclear fuel, or other radioactive materials at or in such site as promptly as practicable;

"(D) take reasonable and necessary steps to reclaim the site and to mitigate any significant adverse environmental impacts caused by site characterization activities at such site;

"(E) suspend all future benefits payments under subtitle F with respect to such site; and

"(F) report to Congress not later than 6 months after such determination the Secretary's recommendations for further action to assure the safe, permanent disposal of spent nuclear fuel and high-level radioactive waste, including the need for new legislative authority.". Reports.

(h) HEARINGS AND PRESIDENTIAL RECOMMENDATION.—Section 114(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(a)) is amended—

(1) in paragraph (1)—

(A) by striking "each site" through "development of a repository" and inserting "the Yucca Mountain site";

(B) by striking "in which such site is located";

(C) by striking "not less than 3" and all that follows through "subsequent repositories" and inserting "the Yucca Mountain site";

(D) by striking "in which such site" and all that follows through "case may be" and insert "of Nevada";

(E) by striking the sentence beginning with "In making site recommendations";

(F) by amending subparagraph (D) to read as follows:

"(D) a final environmental impact statement prepared for the Yucca Mountain site pursuant to subsection (f) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), together with comments made concerning such environmental impact statement by the Secretary of the Interior, the Council on Environmental Quality, the Administrator, and the Commission, except that the Secretary shall not be required in any such environmental impact statement to consider the need for a repository, the alternatives to geological disposal, or alternative sites to the Yucca Mountain site;"; and

(G) in subparagraph (H), by striking "the State" and all that follows through the end of the sentence and inserting "the State of Nevada";

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(2) by striking paragraphs (2) and (3) and inserting the following:

President of U.S.

"(2)(A) If, after recommendation by the Secretary, the President considers the Yucca Mountain site qualified for application for a construction authorization for a repository, the President shall submit a recommendation of such site to Congress.

"(B) The President shall submit with such recommendation a copy of the statement for such site prepared by the Secretary under paragraph (1).''; and

(3) in paragraph (4) by—

(A) striking "(4)(A)" and inserting "(3)(A)";

(B) striking "any site under this subsection" and inserting "the Yucca Mountain site"; and

(C) by striking "report" and inserting "statement".

(i) SUBMISSION OF APPLICATION.—Section 114(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(b)) is amended—

(1) by striking "a site for a repository" and inserting "the Yucca Mountain site"; and

(2) by striking "in which" and all that follows through "may be," and inserting "of Nevada".

(j) COMMISSION ACTION.—Section 114(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) is amended in the first sentence—

(1) by striking "than—" and all that follows through "(2) the expiration" and inserting "than the expiration"; and

(2) by striking "(e)(2); whichever occurs later" and inserting "(e)(2)".

(k) PROJECT DECISION SCHEDULE.—Section 114(e) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(e)) is amended by striking "repository involved" and inserting "repository".

(l) ENVIRONMENTAL IMPACT STATEMENT.—Section 114(f) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(f)) is amended to read as follows:

"(f) ENVIRONMENTAL IMPACT STATEMENT.—(1) Any recommendation made by the Secretary under this section shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). A final environmental impact statement prepared by the Secretary under such Act shall accompany any recommendation to the President to approve a site for a repository.

"(2) With respect to the requirements imposed by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), compli-

ance with the procedures and requirements of this Act shall be deemed adequate consideration of the need for a repository, the time of the initial availability of a repository, and all alternatives to the isolation of high-level radioactive waste and spent nuclear fuel in a repository.

"(3) For purposes of complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section, the Secretary need not consider alternate sites to the Yucca Mountain site for the repository to be developed under this subtitle.

"(4) Any environmental impact statement prepared in connection with a repository proposed to be constructed by the Secretary under this subtitle shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization and license for such repository. To the extent such statement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). 101 STAT. 1330-231

"(5) Nothing in this Act shall be construed to amend or otherwise detract from the licensing requirements of the Nuclear Regulatory Commission established in title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.).

"(6) In any such statement prepared with respect to the repository to be constructed under this subtitle, the Nuclear Regulatory Commission need not consider the need for a repository, the time of initial availability of a repository, alternate sites to the Yucca Mountain site, or nongeologic alternatives to such site.".

(m) ON-SITE REPRESENTATIVE.—Section 117 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10137) is amended by adding at the end the following new subsection:

"(d) ON-SITE REPRESENTATIVE.—The Secretary shall offer to any State, Indian tribe or unit of local government within whose jurisdiction a site for a repository or monitored retrievable storage facility is located under this title an opportunity to designate a representative to conduct on-site oversight activities at such site. Reasonable expenses of such representatives shall be paid out of the Waste Fund.".

SEC. 5012. SECOND REPOSITORY.

Subtitle E of title I of the Nuclear Waste Policy Act of 1982 (as created by section 5011 of this Act) is amended by adding at the end the following new section:

"SITING A SECOND REPOSITORY

"SEC. 161. (a) CONGRESSIONAL ACTION REQUIRED.—The Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities. 42 USC 10172a

"(b) REPORT.—The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

"(c) TERMINATION OF GRANITE RESEARCH.—Not later than 6 months after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, the Secretary shall phase out in an orderly manner funding for all research programs in existence on such date of enactment designed to evaluate the suitability of crystalline rock as a potential repository host medium.

"(d) ADDITIONAL SITING CRITERIA.—In the event that the Secretary at any time after such date of enactment considers any sites in

crystalline rock for characterization or selection as a repository, the Secretary shall consider (as a supplement to the siting guidelines under section 112) such potentially disqualifying factors as—

"(1) seasonal increases in population;

"(2) proximity to public drinking water supplies, including those of metropolitan areas; and

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"(3) the impact that characterization or siting decisions would have on lands owned or placed in trust by the United States for Indian tribes.".

PART B—MONITORED RETRIEVABLE STORAGE

SEC. 5021. AUTHORIZATION OF MONITORED RETRIEVABLE STORAGE.

Subtitle C of the Nuclear [74] Waste Policy Act of 1982 is amended by adding at the end the following new sections:

"AUTHORIZATION OF MONITORED RETRIEVABLE STORAGE

42 USC 10162.

"SEC. 142. (a) NULLIFICATION OF OAK RIDGE SITING PROPOSAL.—The proposal of the Secretary (EC-1022, 100th Congress) to locate a monitored retrievable storage facility at a site on the Clinch River in the Roane County portion of Oak Ridge, Tennessee, with alternative sites on the Oak Ridge Reservation of the Department of Energy and on the former site of a proposed nuclear powerplant in Hartsville, Tennessee, is annulled and revoked. In carrying out the provisions of sections 144 and 145, the Secretary shall make no presumption or preference to such sites by reason of their previous selection.

"(b) AUTHORIZATION.—The Secretary is authorized to site, construct, and operate one monitored retrievable storage facility subject to the conditions described in sections 143 through 149.

"MONITORED RETRIEVABLE STORAGE COMMISSION

42 USC 10163.

"SEC. 143. (a) ESTABLISHMENT.—(1)(A) There is established a Monitored Retrievable Storage Review Commission (hereinafter in this section referred to as the 'MRS Commission'), that shall consist of 3 members who shall be appointed by and serve at the pleasure of the President pro tempore of the Senate and the Speaker of the House of Representatives.

"(B) [75] Members of the MRS Commission shall be appointed not later than 30 days after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987 from among persons who as a result of training, experience and attainments are exceptionally well qualified to evaluate the need for a monitored retrievable storage facility as a part of the Nation's nuclear waste management system.

Reports.

"(C) The MRS Commission shall prepare a report on the need for a monitored retrievable storage facility as a part of a national nuclear waste management system that achieves the purposes of this Act. In preparing the report under this subparagraph, the MRS Commission shall—

"(i) review the status and adequacy of the Secretary's evaluation of the systems advantages and disadvantages of bringing such a facility into the national nuclear waste disposal system;

"(ii) obtain comment and available data on monitored retrievable storage from affected parties, including States containing potentially acceptable sites;

"(iii) evaluate the utility of a monitored retrievable storage facility from a technical perspective; and

[74] Copy read "C of Nuclear".
[75] Copy read "(B)(i)".

"(iv) make a recommendation to Congress as to whether such a facility should be included in the national nuclear waste management system in order to achieve the purposes of this Act, including meeting needs for packaging and handling of spent nuclear fuel, improving the flexibility of the repository development schedule, and providing temporary storage of spent nuclear fuel accepted for disposal. 101 STAT. 1330-233

"(2) In preparing the report and making its recommendation under paragraph (1) the MRS Commission shall compare such a facility to the alternative of at-reactor storage of spent nuclear fuel prior to disposal of such fuel in a repository under this Act. Such comparison shall take into consideration the impact on—

"(A) repository design and construction;

"(B) waste package design, fabrication and standardization;

"(C) waste preparation;

"(D) waste transportation systems;

"(E) the reliability of the national system for the disposal of radioactive waste;

"(F) the ability of the Secretary to fulfill contractual commitments of the Department under this Act to accept spent nuclear fuel for disposal; and

"(G) economic factors, including the impact on the costs likely to be imposed on ratepayers of the Nation's electric utilities for temporary at-reactor storage of spent nuclear fuel prior to final disposal in a repository, as well as the costs likely to be imposed on ratepayers of the Nation's electric utilities in building and operating such a facility.

"(3) The report under this subsection, together with the recommendation of the MRS Commission, shall be transmitted to Congress on June 1, 1989. Reports.

"(4)(A)(i) Each member of the MRS Commission shall be paid at the rate provided for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the MRS Commission, and shall receive travel expenses, including per diem in lieu of subsistence in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

"(ii) The MRS Commission may appoint and fix compensation, not to exceed the rate of basic pay payable for GS-18 of the General Schedule, for such staff as may be necessary to carry out its functions.

"(B)(i) The MRS Commission may hold hearings, sit and act at such times and places, take such testimony and receive such evidence as the MRS Commission considers appropriate. Any member of the MRS Commission may administer oaths or affirmations to witnesses appearing before the MRS Commission.

"(ii) The MRS Commission may request any Executive agency, including the Department, to furnish such assistance or information, including records, data, files, or documents, as the Commission considers necessary to carry out its functions. Unless prohibited by law, such agency shall promptly furnish such assistance or information.

"(iii) To the extent permitted by law, the Administrator of the General Services Administration shall, upon request of the MRS Commission, provide the MRS Commission with necessary administrative services, facilities, and support on a reimbursable basis.

"(iv) The MRS Commission may procure temporary and intermittent services from experts and consultants to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates and under such rules as the MRS Commission considers reasonable. 101 STAT. 1330-234

"(C) The MRS Commission shall cease to exist 60 days after the submission to Congress of the report required under this subsection.

"SURVEY

"SEC. 144. After the MRS Commission submits its report to the Congress under section 143, the Secretary may conduct a survey and 42 USC 10164.

evaluation of potentially suitable sites for a monitored retrievable storage facility. In conducting such survey and evaluation, the Secretary shall consider the extent to which siting a monitored retrievable storage facility at each site surveyed would—

"(1) enhance the reliability and flexibility of the system for the disposal of spent nuclear fuel and high-level radioactive waste established under this Act;

"(2) minimize the impacts of transportation and handling of such fuel and waste;

"(3) provide for public confidence in the ability of such system to safely dispose of the fuel and waste;

"(4) impose minimal adverse effects on the local community and the local environment;

"(5) provide a high probability that the facility will meet applicable environmental, health, and safety requirements in a timely fashion;

"(6) provide such other benefits to the system for the disposal of spent nuclear fuel and high-level radioactive waste as the Secretary deems appropriate; and

"(7) unduly burden a State in which significant volumes of high-level radioactive waste resulting from atomic energy defense activities are stored.

"SITE SELECTION

42 USC 10165.

"SEC. 145. (a) IN GENERAL.—The Secretary may select the site evaluated under section 144 that the Secretary determines on the basis of available information to be the most suitable for a monitored retrievable storage facility that is an integral part of the system for the disposal of spent nuclear fuel and high-level radioactive waste established under this Act.

"(b) LIMITATION.—The Secretary may not select a site under subsection (a) until the Secretary recommends to the President the approval of a site for development as a repository under section 114(a).

"(c) SITE SPECIFIC ACTIVITIES.—The Secretary may conduct such site specific activities at each site surveyed under section 144 as he determines may be necessary to support an application to the Commission for a license to construct a monitored retrievable storage facility at such site.

"(d) ENVIRONMENTAL ASSESSMENT.—Site specific activities and selection of a site under this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Secretary shall prepare an environmental assessment with respect to such selection in accordance with regulations issued by the Secretary implementing such Act. Such environmental
101 STAT. 1330-235 assessment shall be based upon available information regarding alternative technologies for the storage of spent nuclear fuel and high-level radioactive waste. The Secretary shall submit such environmental assessment to the Congress at the time such site is selected.

"(e) NOTIFICATION BEFORE SELECTION.—(1) At least 6 months before selecting a site under subsection (a), the Secretary shall notify the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, of such potential selection and the basis for such selection.

"(2) Before selecting any site under subsection (a), the Secretary shall hold at least one public hearing in the vicinity of such site to solicit any recommendations of interested parties with respect to issues raised by the selection of such site.

"(f) NOTIFICATION OF SELECTION.—The Secretary shall promptly notify Congress and the appropriate State or Indian tribe of the selection under subsection (a).

"(g) LIMITATION.—No monitored retrievable storage facility authorized pursuant to section 142(b) may be constructed in the State of Nevada.

"NOTICE OF DISAPPROVAL

"SEC. 146. (a) IN GENERAL.—The selection of a site under section 145 shall be effective at the end of the period of 60 calendar days beginning on the date of notification under such subsection, unless the governing body of the Indian tribe on whose reservation such site is located, or, if the site is not on a reservation, the Governor and the legislature of the State in which the site is located, has submitted to Congress a notice of disapproval with respect to such site. If any such notice of disapproval has been submitted under this subsection, the selection of the site under section 145 shall not be effective except as provided under section 115(c). 42 USC 10166.

"(b) REFERENCES.—For purposes of carrying out the provisions of this subsection, references in section 115(c) to a repository shall be considered to refer to a monitored retrievable storage facility and references to a notice of disapproval of a repository site designation under section 116(b) or 118(a) shall be considered to refer to a notice of disapproval under this section.

"BENEFITS AGREEMENT

"SEC. 147. Once selection of a site for a monitored retrievable storage facility is made by the Secretary under section 145, the Indian tribe on whose reservation the site is located, or, in the case that the site is not located on a reservation, the State in which the site is located, shall be eligible to enter into a benefits agreement with the Secretary under section 170. 42 USC 10167.

"CONSTRUCTION AUTHORIZATION

"SEC. 148. (a) ENVIRONMENTAL IMPACT STATEMENT.—(1) Once the selection of a site is effective under section 146, the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply with respect to construction of a monitored retrievable storage facility, except that any environmental impact statement prepared with respect to such facility shall not be required to consider the need for such facility or any alternative to the design criteria for such facility set forth in section 141(b)(1). 42 USC 10168.

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"(2) Nothing in this section shall be construed to limit the consideration of alternative facility designs consistent with the criteria described in section 141(b)(1) in any environmental impact statement, or in any licensing procedure of the Commission, with respect to any monitored retrievable storage facility authorized under section 142(b).

"(b) APPLICATION FOR CONSTRUCTION LICENSE.—Once the selection of a site for a monitored retrievable storage facility is effective under section 146, the Secretary may submit an application to the Commission for a license to construct such a facility as part of an integrated nuclear waste management system and in accordance with the provisions of this section and applicable agreements under this Act affecting such facility.

"(c) LICENSING.—Any monitored retrievable storage facility authorized pursuant to section 142(b) shall be subject to licensing under section 202(3) of the Energy Reorganization Act of 1974 (42 U.S.C. 5842(3)). In reviewing the application filed by the Secretary for licensing of such facility, the Commission may not consider the need for such facility or any alternative to the design criteria for such facility set forth in section 141(b)(1).

"(d) LICENSING CONDITIONS.—Any license issued by the Commission for a monitored retrievable storage facility under this section shall provide that—

"(1) construction of such facility may not begin until the Commission has issued a license for the construction of a repository under section 115(d);

"(2) construction of such facility or acceptance of spent nuclear fuel or high-level radioactive waste shall be prohibited during such time as the repository license is revoked by the Commission or construction of the repository ceases;

"(3) the quantity of spent nuclear fuel or high-level radioactive waste at the site of such facility at any one time may not exceed 10,000 metric tons of heavy metal until a repository under this Act first accepts spent nuclear fuel or solidified high-level radioactive waste; and

"(4) the quantity of spent nuclear fuel or high-level radioactive waste at the site of such facility at any one time may not exceed 15,000 metric tons of heavy metal.

"FINANCIAL ASSISTANCE

42 USC 10169.

"SEC. 149. The provisions of section 116(c) or 118(b) with respect to grants, technical assistance, and other financial assistance shall apply to the State, to affected Indian tribes and to affected units of local government in the case of a monitored retrievable storage facility in the same manner as for a repository.".

PART C—BENEFITS

SEC. 5031. BENEFITS.

Title I of the Nuclear Waste Policy Act of 1982 is further amended by adding at the end the following new subtitles:

101 STAT. 1330-237

"SUBTITLE F—BENEFITS

"BENEFITS AGREEMENTS

42 USC 10173.

"SEC. 170. (a) IN GENERAL.—(1) The Secretary may enter into a benefits agreement with the State of Nevada concerning a repository or with a State or an Indian tribe concerning a monitored retrievable storage facility for the acceptance of high-level radioactive waste or spent nuclear fuel in that State or on the reservation of that tribe, as appropriate.

"(2) The State or Indian tribe may enter into such an agreement only if the State Attorney General or the appropriate governing authority of the Indian tribe or the Secretary of the Interior, in the absence of an appropriate governing authority, as appropriate, certifies to the satisfaction of the Secretary that the laws of the State or Indian tribe provide adequate authority for that entity to enter into the benefits agreement.

"(3) Any benefits agreement with a State under this section shall be negotiated in consultation with affected units of local government in such State.

"(4) Benefits and payments under this subtitle may be made available only in accordance with a benefits agreement under this section.

"(b) AMENDMENT.—A benefits agreement entered into under subsection (a) may be amended only by the mutual consent of the parties to the agreement and terminated only in accordance with section 173.

"(c) AGREEMENT WITH NEVADA.—The Secretary shall offer to enter into a benefits agreement with the Governor of Nevada. Any benefits agreement with a State under this subsection shall be negotiated in consultation with any affected units of local government in such State.

"(d) MONITORED RETRIEVABLE STORAGE.—The Secretary shall offer to enter into a benefits agreement relating to a monitored retriev-

able storage facility with the governing body of the Indian tribe on whose reservation the site for such facility is located, or, if the site is not located on a reservation, with the Governor of the State in which the site is located and in consultation with affected units of local government in such State.

"(e) LIMITATION.—Only one benefits agreement for a repository and only one benefits agreement for a monitored retrievable storage facility may be in effect at any one time.

"(f) JUDICIAL REVIEW.—Decisions of the Secretary under this section are not subject to judicial review.

"CONTENT OF AGREEMENTS

"SEC. 171. (a) IN GENERAL.—(1) In addition to the benefits to which a State, an affected unit of local government or Indian tribe is entitled under title I, the Secretary shall make payments to a State or Indian tribe that is a party to a benefits agreement under section 170 in accordance with the following schedule: 42 USC 10173a.

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"BENEFITS SCHEDULE

(amounts in $ millions)

Event	MRS	Repository
(A) Annual payments prior to first spent fuel receipt	5	10
(B) Upon first spent fuel receipt	10	20
(C) Annual payments after first spent fuel receipt until closure of the facility	10	20

"(2) For purposes of this section, the term—

"(A) 'MRS' means a monitored retrievable storage facility,

"(B) 'spent fuel' means high-level radioactive waste or spent nuclear fuel, and

"(C) 'first spent fuel receipt' does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

"(3) Annual payments prior to first spent fuel receipt under paragraph (1)(A) shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under paragraph (1)(C) shall be made on the anniversary date of such first spent fuel receipt.

"(4) If the first spent fuel payment under paragraph (1)(B) is made within six months after the last annual payment prior to the receipt of spent fuel under paragraph (1)(A), such first spent fuel payment under paragraph (1)(B) shall be reduced by an amount equal to one-twelfth of such annual payment under paragraph (1)(A) for each full month less than six that has not elapsed since the last annual payment under paragraph (1)(A).

"(5) Notwithstanding paragraph (1), (2), or (3), no payment under this section may be made before January 1, 1989, and any payment due under this title before January 1, 1989, shall be made on or after such date.

"(6) Except as provided in paragraph (7), the Secretary may not restrict the purposes for which the payments under this section may be used.

"(7)(A) Any State receiving a payment under this section shall transfer an amount equal to not less than one-third of the amount of such payment to affected units of local government of such State.

"(B) A plan for this transfer and appropriate allocation of such portion among such governments shall be included in the benefits agreement under section 170 covering such payments.

"(C) In the event of a dispute concerning such plan, the Secretary shall resolve such dispute, consistent with this Act and applicable State law.

"(b) CONTENTS.—A benefits agreement under section 170 shall provide that—

"(1) a Review Panel be established in accordance with section 172;

"(2) the State or Indian tribe that is party to such agreement waive its rights under title I to disapprove the recommendation of a site for a repository;

"(3) the parties to the agreement shall share with one another information relevant to the licensing process for the repository or monitored retrievable storage facility, as it becomes available;

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"(4) the State or Indian tribe that is party to such agreement participate in the design of the repository or monitored retrievable storage facility and in the preparation of documents required under law or regulation governing the effects of the facility on the public health and safety; and

"(5) the State or Indian tribe waive its rights, if any, to impact assistance under sections 116(c)(1)(B)(ii), 116(c)(2), 118(b)(2)(A)(ii), and 118(b)(3).

"(c) The Secretary shall make payments to the States or affected Indian tribes under a benefits agreement under this section from the Waste Fund. The signature of the Secretary on a valid benefits agreement under section 170 shall constitute a commitment by the United States to make payments in accordance with such agreement.

"REVIEW PANEL

42 USC 10173b.

"SEC. 172. (a) IN GENERAL.—The Review Panel required to be established by section 171(b)(1) of this Act shall consist of a Chairman selected by the Secretary in consultation with the Governor of the State or governing body of the Indian tribe, as appropriate, that is party to such agreement and 6 other members as follows:

"(1) 2 members selected by the Governor of such State or governing body of such Indian tribe;

"(2) 2 members selected by units of local government affected by the repository or monitored retrievable storage facility;

"(3) 1 member to represent persons making payments into the Waste Fund, to be selected by the Secretary; and

"(4) 1 member to represent other public interests, to be selected by the Secretary.

"(b) TERMS.—(1) The members of the Review Panel shall serve for terms of 4 years each.

"(2) Members of the Review Panel who are not full-time employees of the Federal Government, shall receive a per diem compensation for each day spent conducting work of the Review Panel, including their necessary travel or other expenses while engaged in the work of the Review Panel.

"(3) Expenses of the Panel shall be paid by the Secretary from the Waste Fund.

"(c) DUTIES.—The Review Panel shall—

"(1) advise the Secretary on matters relating to the proposed repository or monitored retrievable storage facility, including issues relating to design, construction, operation, and decommissioning of the facility;

"(2) evaluate performance of the repository or monitored retrievable storage facility, as it considers appropriate;

"(3) recommend corrective actions to the Secretary;

"(4) assist in the presentation of State or affected Indian tribe and local perspectives to the Secretary; and

"(5) participate in the planning for and the review of preoperational data on environmental, demographic, and socioeconomic conditions of the site and the local community.

"(d) INFORMATION.—The Secretary shall promptly make available promptly any information in the Secretary's possession requested by the Panel or its Chairman.

"(e) FEDERAL ADVISORY COMMITTEE ACT.—The requirements of the Federal Advisory Committee Act shall not apply to a Review Panel established under this title.

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"TERMINATION

"SEC. 173. (a) IN GENERAL.—The Secretary may terminate a benefits agreement under this title if— 42 USC 10173c.

"(1) the site under consideration is disqualified for its failure to comply with guidelines and technical requirements established by the Secretary in accordance with this Act; or

"(2) the Secretary determines that the Commission cannot license the facility within a reasonable time.

"(b) TERMINATION BY STATE OR INDIAN TRIBE.—A State or Indian tribe may terminate a benefits agreement under this title only if the Secretary disqualifies the site under consideration for its failure to comply with technical requirements established by the Secretary in accordance with this Act or the Secretary determines that the Commission cannot license the facility within a reasonable time.

"(c) DECISIONS OF THE SECRETARY.—Decisions of the Secretary under this section shall be in writing, shall be available to Congress and the public, and are not subject to judicial review.

"SUBTITLE G—OTHER BENEFITS

"CONSIDERATION IN SITING FACILITIES

"SEC. 174. The Secretary, in siting Federal research projects, shall give special consideration to proposals from States where a repository is located. 42 USC 10174.

"REPORT

"SEC. 175. (a) IN GENERAL.—Within one year of the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, the Secretary shall report to Congress on the potential impacts of locating a repository at the Yucca Mountain site, including the recommendations of the Secretary for mitigation of such impacts and a statement of which impacts should be dealt with by the Federal Government, which should be dealt with by the State with State resources, including the benefits payments under section 171, and which should be a joint Federal-State responsibility. The report under this subsection shall include the analysis of the Secretary of the authorities available to mitigate these impacts and the appropriate sources of funds for such mitigation. 42 USC 10174a.

"(b) IMPACTS TO BE [76] CONSIDERED.—Potential impacts to be addressed in the report under this subsection (a) shall include impacts on—

"(1) education, including facilities and personnel for elementary and secondary schools, community colleges, vocational and technical schools and universities;

"(2) public health, including the facilities and personnel for treatment and distribution of water, the treatment of sewage, the control of pests and the disposal of solid waste;

"(3) law enforcement, including facilities and personnel for the courts, police and sheriff's departments, district attorneys and public defenders and prisons;

"(4) fire protection, including personnel, the construction of fire stations, and the acquisition of equipment;

"(5) medical care, including emergency services and hospitals;

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"(6) cultural and recreational needs, including facilities and personnel for libraries and museums and the acquisition and expansion of parks;

[76] Copy read "TO BE".

"(7) distribution of public lands to allow for the timely expansion of existing, or creation of new, communities and the construction of necessary residential and commercial facilities;

"(8) vocational training and employment services;

"(9) social services, including public assistance programs, vocational and physical rehabilitation programs, mental health services, and programs relating to the abuse of alcohol and controlled substances;

"(10) transportation, including any roads, terminals, airports, bridges, or railways associated with the facility and the repair and maintenance of roads, terminals, airports, bridges, or railways damaged as a result of the construction, operation, and closure of the facility;

"(11) equipment and training for State and local personnel in the management of accidents involving high-level radioactive waste;

"(12) availability of energy;

"(13) tourism and economic development, including the potential loss of revenue and future economic growth; and

"(14) other needs of the State and local governments that would not have arisen but for the characterization of the site and the construction, operation, and eventual closure of the repository facility.".

SEC. 5032. PARTICIPATION OF STATES.

(a) FINANCIAL ASSISTANCE.—Section 116(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10136(c)) is amended to read as follows:

"(c) FINANCIAL ASSISTANCE.—(1)(A) The Secretary shall make grants to the State of Nevada and any affected unit of local government for the purpose of participating in activities required by this section and section 117 or authorized by written agreement entered into pursuant to section 117(c). Any salary or travel expense that would ordinarily be incurred by such State or affected unit of local government, may not be considered eligible for funding under this paragraph.

Grants.

"(B) The Secretary shall make grants to the State of Nevada and any affected unit of local government for purposes of enabling such State or affected unit of local government—

"(i) to review activities taken under this subtitle with respect to the Yucca Mountain site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of a repository on such State, or affected unit of local government and its residents;

"(ii) to develop a request for impact assistance under paragraph (2);

"(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

"(iv) to provide information to Nevada residents regarding any activities of such State, the Secretary, or the Commission with respect to such site; and

"(v) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken under this subtitle with respect to such site.

101 STAT. 1330-242

"(C) Any salary or travel expense that would ordinarily be incurred by the State of Nevada or any affected unit of local government may not be considered eligible for funding under this paragraph.

"(2)(A)(i) The Secretary shall provide financial and technical assistance to the State of Nevada, and any affected unit of local government requesting such assistance.

"(ii) Such assistance shall be designed to mitigate the impact on such State or affected unit of local government of the development of such repository and the characterization of such site.

"(iii) Such assistance to such State or affected unit of local government of such State shall commence upon the initiation of site characterization activities.

"(B) The State of Nevada and any affected unit of local government may request assistance under this subsection by preparing and submitting to the Secretary a report on the economic, social, public health and safety, and environmental impacts that are likely to result from site characterization activities at the Yucca Mountain site. Such report shall be submitted to the Secretary after the Secretary has submitted to the State a general plan for site characterization activities under section 113(b). Reports.

"(C) As soon as practicable after the Secretary has submitted such site characterization plan, the Secretary shall seek to enter into a binding agreement with the State of Nevada setting forth—

"(i) the amount of assistance to be provided under this subsection to such State or affected unit of local government; and

"(ii) the procedures to be followed in providing such assistance.

"(3)(A) In addition to financial assistance provided under paragraphs (1) and (2), the Secretary shall grant to the State of Nevada and any affected unit of local government an amount each fiscal year equal to the amount such State or affected unit of local government, respectively, would receive if authorized to tax site characterization activities at such site, and the development and operation of such repository, as such State or affected unit of local government taxes the non-Federal real property and industrial activities occurring within such State or affected unit of local government. Grants.

"(B) Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

"(4)(A) The State of Nevada or any affected unit of local government may not receive any grant under paragraph (1) after the expiration of the 1-year period following— Grants.

"(i) the date on which the Secretary notifies the Governor and legislature of the State of Nevada of the termination of site characterization activities at the site in such State;

"(ii) the date on which the Yucca Mountain site is disapproved under section 115; or

"(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site;

whichever occurs first.

"(B) The State of Nevada or any affected unit of local government may not receive any further assistance under paragraph (2) with respect to a site if repository construction activities or site characterization activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court. 101 STAT. 1330-243

"(C) At the end of the 2-year period beginning on the effective date of any license to receive and possess for a repository in a State, no Federal funds, shall be made available to such State or affected unit of local government under paragraph (1) or (2), except for—

"(i) such funds as may be necessary to support activities related to any other repository located in, or proposed to be located in, such State, and for which a license to receive and possess has not been in effect for more than 1 year;

"(ii) such funds as may be necessary to support State activities pursuant to agreements or contracts for impact assistance entered into, under paragraph (2), by such State with the Secretary during such 2-year period; and

"(iii) such funds as may be provided under an agreement entered into under title IV.

"(5) Financial assistance authorized in this subsection shall be made out of amounts held in the Waste Fund.

"(6) No State, other than the State of Nevada, may receive financial assistance under this subsection after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987.".

SEC. 5033. PARTICIPATION OF INDIAN TRIBES.

Section 118(b)(5) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10138(b)(5)) is amended by—

(1) striking "or" at the end of clause (ii); and

(2) adding at the end the following new clause:

"(iv) the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987;".

PART D—NUCLEAR WASTE NEGOTIATOR

SEC. 5041. NUCLEAR WASTE NEGOTIATOR.

The Nuclear Waste Policy Act of 1982 is amended by adding at the end the following new title:

"TITLE IV—NUCLEAR WASTE NEGOTIATOR

"DEFINITION

42 USC 10241. "SEC. 401. For purposes of this title, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, any other territory or possession of the United States, and the Republic of the Marshall Islands.

"THE OFFICE OF THE NUCLEAR WASTE NEGOTIATOR

42 USC 10242. "SEC. 402. (a) ESTABLISHMENT.—There is established within the Executive Office of the President the Office of the Nuclear Waste Negotiator.

President of U.S. "(b) THE NUCLEAR WASTE NEGOTIATOR.—(1) The Office shall be headed by a Nuclear Waste Negotiator who shall be appointed by the President, by and with the advice and consent of the Senate. The Negotiator shall hold office at the pleasure of the President, and shall be compensated at the rate provided for level III of the Executive Schedule in section 5314 of title 5, United States Code.

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"(2) The Negotiator shall attempt to find a State or Indian tribe willing to host a repository or monitored retrievable storage facility at a technically qualified site on reasonable terms and shall negotiate with any State or Indian tribe which expresses an interest in hosting a repository or monitored retrievable storage facility.

"DUTIES OF THE NEGOTIATOR

42 USC 10243. "SEC. 403. (a) NEGOTIATIONS WITH POTENTIAL HOSTS.—(1) The Negotiator shall—

"(A) seek to enter into negotiations on behalf of the United States, with—

"(i) the Governor of any State in which a potential site is located; and

"(ii) the governing body of any Indian tribe on whose reservation a potential site is located; and

"(B) attempt to reach a proposed agreement between the United States and any such State or Indian tribe specifying the terms and conditions under which such State or tribe would agree to host a repository or monitored retrievable storage facility within such State or reservation.

"(2) In any case in which State law authorizes any person or entity other than the Governor to negotiate a proposed agreement under this section on behalf of the State, any reference in this title to the Governor shall be considered to refer instead to such other person or entity.

"(b) CONSULTATION WITH AFFECTED STATES, SUBDIVISIONS OF STATES, AND TRIBES.—In addition to entering into negotiations under subsection (a), the Negotiator shall consult with any State, affected

unit of local government, or any Indian tribe that the Negotiator determines may be affected by the siting of a repository or monitored retrievable storage facility and may include in any proposed agreement such terms and conditions relating to the interest of such States, affected units of local government, or Indian tribes as the Negotiator determines to be reasonable and appropriate.

"(c) CONSULTATION WITH OTHER FEDERAL AGENCIES.—The Negotiator may solicit and consider the comments of the Secretary, the Nuclear Regulatory Commission, or any other Federal agency on the suitability of any potential site for site characterization. Nothing in this subsection shall be construed to require the Secretary, the Nuclear Regulatory Commission, or any other Federal agency to make a finding that any such site is suitable for site characterization.

"(d) PROPOSED AGREEMENT.—(1) The Negotiator shall submit to the Congress any proposed agreement between the United States and a State or Indian tribe negotiated under subsection (a) and an environmental assessment prepared under section 404(a) for the site concerned.

"(2) Any such proposed agreement shall contain such terms and conditions (including such financial and institutional arrangements) as the Negotiator and the host State or Indian tribe determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of such State, affected unit of local government, or Indian tribe under sections 116(c), 117, and 118(b).

"(3)(A) No proposed agreement entered into under this section shall have legal effect unless enacted into Federal law. 101 STAT. 1330-245

"(B) A State or Indian tribe shall enter into an agreement under this section in accordance with the laws of such State or tribe Nothing in this section may be construed to prohibit the disapproval of a proposed agreement between a State and the United States under this section by a referendum or an act of the legislature of such State.

"(4) Notwithstanding any proposed agreement under this section, the Secretary may construct a repository or monitored retrievable storage facility at a site agreed to under this title only if authorized by the Nuclear Regulatory Commission in accordance with the Atomic Energy Act of 1954 (42 U.S.C. 2012 et seq.), title II of the Energy Reorganization Act of 1982 (42 U.S.C. 5841 et seq.) and any other law applicable to authorization of such construction.

"ENVIRONMENTAL ASSESSMENT OF SITES

"SEC. 404. (a) IN GENERAL.—Upon the request of the Negotiator, the Secretary shall prepare an environmental assessment of any site that is the subject of negotiations under section 403(a). 42 USC 10244.

"(b) CONTENTS.—(1) Each environmental assessment prepared for a repository site shall include a detailed statement of the probable impacts of characterizing such site and the construction and operation of a repository at such site.

"(2) Each environmental assessment prepared for a monitored retrievable storage facility site shall include a detailed statement of the probable impacts of construction and operation of such a facility at such site.

"(c) JUDICIAL REVIEW.—The issuance of an environmental assessment under subsection (a) shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code, and section 119.

"(d) PUBLIC HEARINGS.—(1) In preparing an environmental assessment for any repository or monitored retrievable storage facility site, the Secretary shall hold public hearings in the vicinity of such site to inform the residents of the area in which such site is located that such site is being considered and to receive their comments.

"(2) At such hearings, the Secretary shall solicit and receive any

recommendations of such residents with respect to issues that should be addressed in the environmental assessment required under subsection (a) and the site characterization plan described in section 113(b)(1).

"(e) PUBLIC AVAILABILITY.—Each environmental assessment prepared under subsection (a) shall be made available to the public.

"(f) EVALUATION OF SITES.—(1) In preparing an environmental assessment under subsection (a), the Secretary shall use available geophysical, geologic, geochemical and hydrologic, and other information and shall not conduct any preliminary borings or excavations at any site that is the subject of such assessment unless—

"(A) such preliminary boring or excavation activities were in progress on or before the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987; or

"(B) the Secretary certifies that, in the absence of preliminary borings or excavations, adequate information will not be available to satisfy the requirements of this Act or any other law.

"(2) No preliminary boring or excavation conducted under this
101 STAT. 1330-246 section shall exceed a diameter of 40 inches.

"SITE CHARACTERIZATION; LICENSING

42 USC 10245. "SEC. 405. (a) SITE CHARACTERIZATION.—Upon enactment of legislation to implement an agreement to site a repository negotiated under section 403(a), the Secretary shall conduct appropriate site characterization activities for the site that is the subject of such agreement subject to the conditions and terms of such agreement. Any such site characterization activities shall be conducted in accordance with section 113, except that references in such section to the Yucca Mountain site and the State of Nevada shall be deemed to refer to the site that is the subject of the agreement and the State or Indian tribe entering into the agreement.

"(b) LICENSING.—(1) Upon the completion of site characterization activities carried out under subsection (a), the Secretary shall submit to the Nuclear Regulatory Commission an application for construction authorization for a repository at such site.

"(2) The Nuclear Regulatory Commission shall consider an application for a construction authorization for a repository or monitored retrievable storage facility in accordance with the laws applicable to such applications, except that the Nuclear Regulatory Commission shall issue a final decision approving or disapproving the issuance of a construction authorization not later than 3 years after the date of the submission of such application.

"MONITORED RETRIEVABLE STORAGE

42 USC 10246. "SEC. 406. (a) CONSTRUCTION AND OPERATION.—Upon enactment of legislation to implement an agreement negotiated under section 403(a) to site a monitored retrievable storage facility, the Secretary shall construct and operate such facility as part of an integrated nuclear waste management system in accordance with the terms and conditions of such agreement.

Grants. "(b) FINANCIAL ASSISTANCE.—The Secretary may make grants to any State, Indian tribe, or affected unit of local government to assess the feasibility of siting a monitored retrievable storage facility under this section at a site under the jurisdiction of such State, tribe, or affected unit of local government.

"ENVIRONMENTAL IMPACT STATEMENT

42 USC 10247. "SEC. 407. (a) IN GENERAL.—Issuance of a construction authorization for a repository or monitored retrievable storage facility under section 405(b) shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(b) PREPARATION.—A final environmental impact statement shall be prepared by the Secretary under such Act and shall accompany any application to the Nuclear Regulatory Commission for a construction authorization.

"(c) ADOPTION.—(1) Any such environmental impact statement shall, to the extent practicable, be adopted by the Nuclear Regulatory Commission, in accordance with section 1506.3 of title 40, Code of Federal Regulations, in connection with the issuance by the Nuclear Regulatory Commission of a construction authorization and license for such repository or monitored retrievable storage facility.

"(2)(A) In any such statement prepared with respect to a repository to be constructed under this title at the Yucca Mountain site, 101 STAT. 1330-247
the Nuclear Regulatory Commission need not consider the need for a repository, the time of initial availability of a repository, alternate sites to the Yucca Mountain site, or nongeologic alternatives to such site.

"(B) In any such statement prepared with respect to a repository to be constructed under this title at a site other than the Yucca Mountain site, the Nuclear Regulatory Commission need not consider the need for a repository, the time of initial availability of a repository, or nongeologic alternatives to such site but shall consider the Yucca Mountain site as an alternate to such site in the preparation of such statement.

"ADMINISTRATIVE POWERS OF THE NEGOTIATOR

"SEC. 408. In carrying out his functions under this title, the Negotiator may— 42 USC 10248.

"(1) appoint such officers and employees as he determines to be necessary and prescribe their duties;

"(2) obtain services as authorized by section 3109 of title 5, United States Code, at rates not to exceed the rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code;

"(3) promulgate such rules and regulations as may be necessary to carry out such functions;

"(4) utilize the services, personnel, and facilities of other Federal agencies (subject to the consent of the head of any such agency);

"(5) for purposes of performing administrative functions under this title, and to the extent funds are appropriated, enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary and on such terms as the Negotiator determines to be appropriate, with any agency or instrumentality of the United States, or with any public or private person or entity; Contracts.

"(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code;

"(7) adopt an official seal, which shall be judicially noticed;

"(8) use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States;

"(9) hold such hearings as are necessary to determine the views of interested parties and the general public; and

"(10) appoint advisory committees under the Federal Advisory Committee Act (5 U.S.C. App.).

"COOPERATION OF OTHER DEPARTMENTS AND AGENCIES

"SEC. 409. Each department, agency, and instrumentality of the United States, including any independent agency, may furnish the Negotiator such information as he determines to be necessary to carry out his functions under this title. 42 USC 10249.

"TERMINATION OF THE OFFICE

42 USC 10250. "SEC. 410. The Office shall cease to exist not later than 30 days after the date 5 years after the date of the enactment of the Nuclear
101 STAT. 1330-248 Waste Policy Amendments Act of 1987.

"AUTHORIZATION OF APPROPRIATIONS

42 USC 10251. "SEC. 411. Notwithstanding subsection (d) of section 302, and subject to subsection (e) of such section, there are authorized to be appropriated for expenditures from amounts in the Waste Fund established in subsection (c) of such section, such sums as may be necessary to carry out the provisions of this title.".

PART E—NUCLEAR WASTE TECHNICAL REVIEW BOARD

SEC. 5051. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

The Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) is further amended by adding at the end the following new title:

"TITLE V—NUCLEAR WASTE TECHNICAL REVIEW BOARD

"DEFINITIONS

42 USC 10261. "SEC. 501. As used in this title:

"(1) The term 'Chairman' means the Chairman of the Nuclear Waste Technical Review Board.

"(2) The term 'Board' means the Nuclear Waste Technical Review Board established under section 502.

"NUCLEAR WASTE TECHNICAL REVIEW BOARD

42 USC 10262. "SEC. 502. (a) ESTABLISHMENT.—There is established a Nuclear Waste Technical Review Board that shall be an independent establishment within the executive branch.

President of U.S. "(b) MEMBERS.—(1) The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987 from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

President of U.S. "(2) The President shall designate a member of the Board to serve as chairman.

"(3)(A) The National Academy of Sciences shall, not later than 90 days after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

"(B) The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

"(C)(i) Each person nominated for appointment to the Board shall be—

"(I) eminent in a field of science or engineering, including environmental sciences; and

"(II) selected solely on the basis of established records of distinguished service.

"(ii) The membership of the Board shall be representative of the broad range of scientific and engineering disciplines related to activities under this title.

"(iii) No person shall be nominated for appointment to the Board who is an employee of—

"(I) the Department of Energy;

"(II) a national laboratory under contract with the Department of Energy; or 101 STAT. 1330-249

"(III) an entity performing high-level radioactive waste or spent nuclear fuel activities under contract with the Department of Energy.

"(4) Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

"(5) Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after the date of enactment of the Nuclear Waste Policy Amendments Act of 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment.

"FUNCTIONS

"SEC. 503. The Board shall evaluate the technical and scientific validity of activities undertaken by the Secretary after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, including— 42 USC 10263.

"(1) site characterization activities; and

"(2) activities relating to the packaging or transportation of high-level radioactive waste or spent nuclear fuel.

"INVESTIGATORY POWERS

"SEC. 504. (a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board. 42 USC 10264.

"(b) PRODUCTION OF DOCUMENTS.—(1) Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information as may be necessary to respond to any inquiry of the Board under this title.

"(2) Subject to existing law, information obtainable under paragraph (1) shall not be limited to final work products of the Secretary, but shall include drafts of such products and documentation of work in progress.

"COMPENSATION OF MEMBERS

"SEC. 505. (a) IN GENERAL.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board. 42 USC 10265.

"(b) TRAVEL EXPENSES.—Each member of the Board may receive travel expenses, including per diem in lieu of subsistence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

"STAFF

"SEC. 506. (a) CLERICAL STAFF.—(1) Subject to paragraph (2), the Chairman may appoint and fix the compensation of such clerical staff as may be necessary to discharge the responsibilities of the Board. 42 USC 10266. 101 STAT. 1330-250

"(2) Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) PROFESSIONAL STAFF.—(1) Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such profes-

sional staff as may be necessary to discharge the responsibilities of the Board.

"(2) Not more than 10 professional staff members may be appointed under this subsection.

"(3) Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

"SUPPORT SERVICES

42 USC 10267.

"SEC. 507. (a) GENERAL SERVICES.—To the extent permitted by law and requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

"(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY ASSESSMENT SERVICES.—The Comptroller General, the Librarian of Congress, and the Director of the Office of Technology Assessment shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

"(c) ADDITIONAL SUPPORT.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

"(d) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(e) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

"REPORT

42 USC 10268.

"SEC. 508. The Board shall report not less than 2 times per year to Congress and the Secretary its findings, conclusions, and recommendations. The first such report shall be submitted not later than 12 months after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987.

101 STAT. 1330-251

"AUTHORIZATION OF APPROPRIATIONS

42 USC 10269.

"SEC. 509. Notwithstanding subsection (d) of section 302, and subject to subsection (e) of such section, there are authorized to be appropriated for expenditures from amounts in the Waste Fund established in subsection (c) of such section such sums as may be necessary to carry out the provisions of this title.

"TERMINATION OF THE BOARD

42 USC 10270.

"SEC. 510. The Board shall cease to exist not later than 1 year after the date on which the Secretary begins disposal of high-level radioactive waste or spent nuclear fuel in a repository.".

PART F—MISCELLANEOUS

SEC. 5061. TRANSPORTATION.

Title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10121-10171) is further amended by adding at the end the following new subtitle:

"SUBTITLE H—TRANSPORTATION

"TRANSPORTATION

"SEC. 180. (a) No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under subtitle A or under subtitle C except in packages that have been certified for such purpose by the Commission. 42 USC 10175.

"(b) The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under subtitle A or under subtitle C.

"(c) The Secretary shall provide technical assistance and funds to States for training for public safety officials of appropriate units of local government and Indian tribes through whose jurisdiction the Secretary plans to transport spent nuclear fuel or high-level radioactive waste under subtitle A or under subtitle C. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations. The Waste Fund shall be the source of funds for work carried out under this subsection.".

SEC. 5062. TRANSPORTATION OF PLUTONIUM BY AIRCRAFT THROUGH UNITED STATES AIR SPACE. 42 USC 5841 note.

(a) IN GENERAL.—Notwithstanding any other provision of law, no form of plutonium may be transported by aircraft through the air space of the United States from a foreign nation to a foreign nation unless the Nuclear Regulatory Commission has certified to Congress that the container in which such plutonium is transported is safe, as determined in accordance with subsection (b), the second undesignated paragraph under section 201 of Public Law 94-79 (89 Stat. 413; 42 U.S.C. 5841 note), and all other applicable laws.

(b) RESPONSIBILITIES OF THE NUCLEAR REGULATORY COMMISSION.—

(1) DETERMINATION OF SAFETY.—The Nuclear Regulatory Commission shall determine whether the container referred to in subsection (a) is safe for use in the transportation of plutonium by aircraft and transmit to Congress a certification for the purposes of such subsection in the case of each container determined to be safe. 101 STAT. 1330-252

(2) TESTING.—In order to make a determination with respect to a container under paragraph (1), the Nuclear Regulatory Commission shall—

(A) require an actual drop test from maximum cruising altitude of a full-scale sample of such container loaded with test materials; and

(B) require an actual crash test of a cargo aircraft fully [77] loaded with full-scale samples of such container loaded with test material unless the Commission determines, after consultation with an independent scientific review panel, that the stresses on the container produced by other tests used in developing the container exceed the stresses which would occur during a worst case plutonium air shipment accident.

(3) LIMITATION.—The Nuclear Regulatory Commission may not certify under this section that a container is safe for use in the transportation of plutonium by aircraft if the container ruptured or released its contents during testing conducted in accordance with paragraph (2).

[77] Copy read "full".

(4) EVALUATION.—The Nuclear Regulatory Commission shall evaluate the container certification required by title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.) and subsection (a) in accordance with the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321 et seq.) and all other applicable law.

(c) CONTENT OF CERTIFICATION.—A certification referred to in subsection (a) with respect to a container shall include—

(1) the determination of the Nuclear Regulatory Commission as to the safety of such container;

(2) a statement that the requirements of subsection (b)(2) were satisfied in the testing of such container; and

(3) a statement that the container did not rupture or release its contents into the environment during testing.

(d) DESIGN OF TESTING PROCEDURES.—The tests required by subsection (b) shall be designed by the Nuclear Regulatory Commission to replicate actual worst case transportation conditions to the maximum extent practicable. In designing such tests, the Commission shall provide for public notice of the proposed test procedures, provide a reasonable opportunity for public comment on such procedures, and consider such comments, if any.

(e) TESTING RESULTS: REPORTS AND PUBLIC DISCLOSURE.—The Nuclear Regulatory Commission shall transmit to Congress a report on the results of each test conducted under this section and shall make such results available to the public.

President of U.S.

(f) ALTERNATIVE ROUTES AND MEANS OF TRANSPORTATION.—With respect to any shipments of plutonium from a foreign nation to a foreign nation which are subject to United States consent rights contained in an Agreement for Peaceful Nuclear Cooperation, the President is authorized to make every effort to pursue and conclude arrangements for alternative routes and means of transportation, including sea shipment. All such arrangements shall be subject to

101 STAT. 1330-253

stringent physical security conditions, and other conditions designed to protect the public health and safety, and provisions of this section, and all other applicable laws.

(g) INAPPLICABILITY TO MEDICAL DEVICES.—Subsections (a) through (e) shall not apply with respect to plutonium in any form contained in a medical device designed for individual human application.

(h) INAPPLICABILITY TO MILITARY USES.—Subsections (a) through (e) shall not apply to plutonium in the form of nuclear weapons nor to other shipments of plutonium determined by the Department of Energy to be directly connected with the United States national security or defense programs.

(i) INAPPLICABILITY TO PREVIOUSLY CERTIFIED CONTAINERS.—This section shall not apply to any containers for the shipment of plutonium previously certified as safe by the Nuclear Regulatory Commission under Public Law 94-79 (89 Stat. 413; 42 U.S.C. 5841 note).

(j) PAYMENT OF COSTS.—All costs incurred by the Nuclear Regulatory Commission associated with the testing program required by this section, and administrative costs related thereto, shall be reimbursed to the Nuclear Regulatory Commission by any foreign country receiving plutonium shipped through United States airspace in containers specified by the Commission.

SEC. 5063. SUBSEABED DISPOSAL.

Title II of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10191-10203) is amended by adding at the end the following new section:

"SUBSEABED DISPOSAL

Reports.
42 USC 10204.

"SEC. 224. (a) STUDY.—Within 270 days after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, the Secretary shall report to Congress on subseabed disposal of spent

nuclear fuel and high-level radioactive waste. The report under this subsection shall include—

"(1) an assessment of the current state of knowledge of subseabed disposal as an alternative technology for disposal of spent nuclear fuel and high-level radioactive waste;

"(2) an estimate of the costs of subseabed disposal;

"(3) an analysis of institutional factors associated with subseabed disposal, including international aspects of a decision of the United States to proceed with subseabed disposal as an option for nuclear waste management;

"(4) a full discussion of the environmental and public health and safety aspects of subseabed disposal;

"(5) recommendations on alternative ways to structure an effort in research, development, and demonstration with respect to subseabed disposal; and

"(6) the recommendations of the Secretary with respect to research, development and demonstration in subseabed disposal of spent nuclear fuel and high-level radioactive waste.

"(b) OFFICE OF SUBSEABED DISPOSAL RESEARCH.—(1) There is hereby established an Office of Subseabed Disposal Research within the Office of Energy Research of the Department of Energy. The Office shall be headed by the Director, who shall be a member of the Senior Executive Service appointed by the Director of the Office of Energy Research, and compensated at a rate determined by applicable law. Establishment.

101 STAT. 1330-254

"(2) The Director of the Office of Subseabed Disposal Research shall be responsible for carrying out research, development, and demonstration activities on all aspects of subseabed disposal of high-level radioactive waste and spent nuclear fuel, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Director of the Office of Energy Research, and the first such Director shall be appointed within 30 days of the date of enactment of the Nuclear Waste Policy Amendments Act of 1987.

"(3) In carrying out his responsibilities under this Act, the Secretary may make grants to, or enter into contracts with, the Subseabed Consortium described in subsection (d) of this section, and other persons. Grants. Contracts.

"(4)(A) Within 60 days of the date of enactment of the Nuclear Waste Policy Amendments Act of 1987, the Secretary shall establish a university-based Subseabed Consortium involving leading oceanographic universities and institutions, national laboratories, and other organizations to investigate the technical and institutional feasibility of subseabed disposal.

"(B) The Subseabed Consortium shall develop a research plan and budget to achieve the following objectives by 1995:

"(i) demonstrate the capacity to identify and characterize potential subseabed disposal sites;

"(ii) develop conceptual designs for a subseabed disposal system, including estimated costs and institutional requirements; and

"(iii) identify and assess the potential impacts of subseabed disposal on the human and marine environment.

"(C) In 1990, and again in 1995, the Subseabed Consortium shall report to Congress on the progress being made in achieving the objectives of paragraph (2). Reports.

"(5) The Director of the Office of Subseabed Disposal Research shall annually prepare and submit a report to the Congress on the activities and expenditures of the Office.". Reports.

SEC. 5604. DRY CASK STORAGE.

(a) STUDY.—During the period between the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987 and October 1, 1988, the Secretary of Energy (hereinafter in this section referred to as the "Secretary") shall conduct a study and evaluation of the use

of dry cask storage technology at the sites of civilian nuclear power reactors for the temporary storage of spent nuclear fuel until such time as a permanent geologic repository has been constructed and licensed by the Nuclear Regulatory Commission (hereinafter in this section referred to as the "Commission") and is capable of receiving spent nuclear fuel. The Secretary shall report to Congress on the study under this paragraph by October 1, 1988.

Reports.

(b) CONTENTS OF STUDY.—In conducting the study under paragraph (1) the Secretary shall—

(1) consider the costs of dry cask storage technology, the extent to which dry cask storage on the site of civilian nuclear power reactors will affect human health and the environment, the extent to which the storage on the sites of civilian nuclear power reactors affects the costs and risk of transporting spent nuclear fuel to a central facility such as a monitored retrievable storage facility, and any other factors the Secretary considers appropriate;

101 STAT. 1330-255

(2) consider the extent to which amounts in the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) can be used, and should be used, to provide funds to construct, operate, maintain, and safeguard spent nuclear fuel in dry cask storage at the sites for civilian nuclear power reactors;

(3) consult with the Commission and include the views of the Commission in the report under paragraph (1); and

(4) solicit the views of State and local governments and the public.

SEC. 5065. AMENDMENTS TO THE TABLE OF CONTENTS.

The table of contents of the Nuclear Waste Policy Act of 1982 is amended by—

(1) adding at the end of subtitle C the following new sections:

"Sec. 142. Authorization of monitored retrievable storage.
"Sec. 143. Monitored Retrievable Storage Commission.
"Sec. 144. Survey.
"Sec. 145. Site selection.
"Sec. 146. Notice of disapproval.
"Sec. 147. Benefits agreement.
"Sec. 148. Construction authorization.
"Sec. 149. Financial assistance.";

(2) adding at the end of title I the following new subtitles:

"SUBTITLE E—REDIRECTION OF THE NUCLEAR WASTE PROGRAM

"Sec. 160. Selection of Yucca Mountain site.
"Sec. 161. Siting a second repository.

"SUBTITLE F—BENEFITS

"Sec. 170. Benefits agreements.
"Sec. 171. Content of agreements.
"Sec. 172. Review panel.
"Sec. 173. Termination.

"SUBTITLE G—OTHER BENEFITS

"Sec. 174. Consideration in siting facilities.
"Sec. 175. Report.

"SUBTITLE H—TRANSPORTATION

"Sec. 180. Transportation.";

(3) adding at the end of title II the following new section.

"Sec. 224. Subseabed disposal."; and

(4) adding at the end the following new titles:

"TITLE IV—NUCLEAR WASTE NEGOTIATOR

"Sec. 401. Definition.
"Sec. 402. The Office of Nuclear Waste Negotiator.

"Sec. 403. Duties of the Negotiator.
"Sec. 404. Environmental assessment of sites.
"Sec. 405. Site characterization; licensing.
"Sec. 406. Monitored retrievable storage
"Sec. 407. Environmental impact statement.
"Sec. 408. Administrative powers of the Negotiator
"Sec. 409. Cooperation of other departments and agencies.
"Sec. 410. Termination of the office.".

101 STAT. 1330-256

Subtitle B—Federal Onshore Oil and Gas Leasing Reform Act of 1987

Federal Onshore Oil and Gas Leasing Reform Act of 1987.
Contracts.

SEC. 5101. SHORT TITLE; REFERENCES.

30 USC 181 note.

(a) SHORT TITLE.—This subtitle may be cited as the "Federal Onshore Oil and Gas Leasing Reform Act of 1987".

(b) REFERENCES.—Any reference in this subtitle to the "Act of February 25, 1920", is a reference to the Act of February 25, 1920, entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain" (30 U.S.C. 181 and following).

SEC. 5102. OIL AND GAS LEASING SYSTEM.

(a) COMPETITIVE BIDDING.—Section 17(b)(1) of the Act of February 25, 1920 (30 U.S.C. 226(b)(1)), is amended to read as follows:

"(b)(1)(A) All lands to be leased which are not subject to leasing under paragraph (2) of this subsection shall be leased as provided in this paragraph to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 2,560 acres, except in Alaska, where units shall be not more than 5,760 acres. Such units shall be as nearly compact as possible. Lease sales shall be conducted by oral bidding. Lease sales shall be held for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary. A lease shall be conditioned upon the payment of a royalty at a rate of not less than 12.5 percent in amount or value of the production removed or sold from the lease. The Secretary shall accept the highest bid from a responsible qualified bidder which is equal to or greater than the national minimum acceptable bid, without evaluation of the value of the lands proposed for lease. Leases shall be issued within 60 days following payment by the successful bidder of the remainder of the bonus bid, if any, and the annual rental for the first lease year. All bids for less than the national minimum acceptable bid shall be rejected. Lands for which no bids are received or for which the highest bid is less than the national minimum acceptable bid shall be offered promptly within 30 days for leasing under subsection (c) of this section and shall remain available for leasing for a period of 2 years after the competitive lease sale.

"(B) The national minimum acceptable bid shall be $2 per acre for a period of 2 years from the date of enactment of the Federal Onshore Oil and Gas Leasing Reform Act of 1987. Thereafter, the Secretary may establish by regulation a higher national minimum acceptable bid for all leases based upon a finding that such action is necessary: (i) to enhance financial returns to the United States; and (ii) to promote more efficient management of oil and gas resources on Federal lands. Ninety days before the Secretary makes any change in the national minimum acceptable bid, the Secretary shall notify the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The proposal or promulgation of any regulation to establish a national minimum acceptable bid shall not be considered a major Federal action subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969.".

Regulations.

101 STAT. 1330-257

(b) NONCOMPETITIVE LEASING.—Section 17(c) of the Act of February 25, 1920 (30 U.S.C. 226(c)), is amended to read as follows:

"(c)(1) If the lands to be leased are not leased under subsection (b)(1) of this section or are not subject to competitive leasing under subsection (b)(2) of this section, the person first making application for the lease who is qualified to hold a lease under this Act shall be entitled to a lease of such lands without competitive bidding, upon payment of a non-refundable application fee of at least $75. A lease under this subsection shall be conditioned upon the payment of a royalty at a rate of 12.5 percent in amount or value of the production removed or sold from the lease. Leases shall be issued within 60 days of the date on which the Secretary identifies the first responsible qualified applicant.

"(2)(A) Lands (i) which were posted for sale under subsection (b)(1) of this section but for which no bids were received or for which the highest bid was less than the national minimum acceptable bid and (ii) for which, at the end of the period referred to in subsection (b)(1) of this section no lease has been issued and no lease application is pending under paragraph (1) of this subsection, shall again be available for leasing only in accordance with subsection (b)(1) of this section.

"(B) The land in any lease which is issued under paragraph (1) of this subsection or under subsection (b)(1) of this section which lease terminates, expires, is cancelled or is relinquished shall again be available for leasing only in accordance with subsection (b)(1) of this section.".

(c) RENTALS.—Section 17(d) of the Act of February 25, 1920 (30 U.S.C. 226(d)), is amended to read as follows:

"(d) All leases issued under this section, as amended by the Federal Onshore Oil and Gas Leasing Reform Act of 1987, shall be conditioned upon payment by the lessee of a rental of not less than $1.50 per acre per year for the first through fifth years of the lease and not less than $2 per acre per year for each year thereafter. A minimum royalty in lieu of rental of not less than the rental which otherwise would be required for that lease year shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.".

(d) NOTICE AND RECLAMATION.—(1) Section 17 of the Act of February 25, 1920 (30 U.S.C. 226), is amended by redesignating subsections (f) through (k) as subsections (i) through (n) and by adding the following new subsections (f) through (h):

Public information.

"(f) At least 45 days before offering lands for lease under this section, and at least 30 days before approving applications for permits to drill under the provisions of a lease or substantially modifying the terms of any lease issued under this section, the Secretary shall provide notice of the proposed action. Such notice shall be posted in the appropriate local office of the leasing and land management agencies. Such notice shall include the terms or modified lease terms and maps or a narrative description of the affected lands. Where the inclusion of maps in such notice is not practicable, maps of the affected lands shall be made available to the public for review. Such maps shall show the location of all tracts to be leased, and of all leases already issued in the general area. The requirements of this subsection are in addition to any public notice required by other law.

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"(g) The Secretary of the Interior, or for National Forest lands, the Secretary of Agriculture, shall regulate all surface-disturbing activities conducted pursuant to any lease issued under this Act, and shall determine reclamation and other actions as required in the interest of conservation of surface resources. No permit to drill on an oil and gas lease issued under this Act may be granted without the analysis and approval by the Secretary concerned of a plan of operations covering proposed surface-disturbing activities within the lease area. The Secretary concerned shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be estab-

lished prior to the commencement of surface-disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. The Secretary shall not issue a lease or leases or approve the assignment of any lease or leases under the terms of this section to any person, association, corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation, during any period in which, as determined by the Secretary of the Interior or Secretary of Agriculture, such entity has failed or refused to comply in any material respect with the reclamation requirements and other standards established under this section for any prior lease to which such requirements and standards applied. Prior to making such determination with respect to any such entity the concerned Secretary shall provide such entity with adequate notification and an opportunity to comply with such reclamation requirements and other standards and shall consider whether any administrative or judicial appeal is pending. Once the entity has complied with the reclamation requirement or other standard concerned an oil or gas lease may be issued to such entity under this Act.

"(h) The Secretary of the Interior may not issue any lease on National Forest System Lands reserved from the public domain over the objection of the Secretary of Agriculture.".

(2) Section 31(h) of the Act of February 25, 1920 (30 U.S.C. 188(h)), is amended by striking out "section 17(j)" and substituting "section 17(m)".

SEC. 5103. ASSIGNMENTS.

Sections 30(a) and 30(b) of the Act of February 25, 1920 (30 U.S.C. 187a, 187b), are redesignated as sections 30A and 30B, respectively, and the third sentence of section 30A, as so redesignated, is amended to read as follows: "The Secretary shall disapprove the assignment or sublease only for lack of qualification of the assignee or sublessee or for lack of sufficient bond: *Provided, however,* That the Secretary may, in his discretion, disapprove an assignment of any of the following, unless the assignment constitutes the entire lease or is demonstrated to further the development of oil and gas:

"(1) A separate zone or deposit under any lease.

"(2) A part of a legal subdivision.

"(3) Less than 640 acres outside Alaska or of less than 2,560 acres within Alaska.

Requests for approval of assignment or sublease shall be processed promptly by the Secretary. Except where the assignment or sublease is not in accordance with applicable law, the approval shall be given within 60 days of the date of receipt by the Secretary of a request for such approval.". 101 STAT. 1330-259

SEC. 5104. LEASE CANCELLATION.

The first sentence of section 31(b) of the Act of February 25, 1920 (30 U.S.C. 188(b)) is amended to read as follows: "Any lease issued after August 21, 1935, under the provisions of section 17 of this Act shall be subject to cancellation by the Secretary of the Interior after 30 days notice upon the failure of the lessee to comply with any of the provisions of the lease, unless or until the leasehold contains a well capable of production of oil or gas in paying quantities, or the lease is committed to an approved cooperative or unit plan or communitization agreement under section 17(m) of this Act which contains a well capable of production of unitized substances in paying quantities.".

SEC. 5105. ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.

Section 1008 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3148) is amended as follows:

(1) Subsections (c) and (e) are deleted in their entirety.

(2) The second sentence of subsection 1008(d) is deleted.

30 USC 226 note.

SEC. 5106. PENDING APPLICATIONS, OFFERS, AND BIDS.

(a) Notwithstanding any other provision of this subtitle and except as provided in subsection (b) of this section, all noncompetitive oil and gas lease applications and offers and competitive oil and gas bids pending on the date of enactment of this subtitle shall be processed, and leases shall be issued under the provisions of the Act of February 25, 1920, as in effect before its amendment by this subtitle, except where the issuance of any such lease would not be lawful under such provisions or other applicable law.

(b) No noncompetitive lease applications or offers pending on the date of enactment of this subtitle for lands within the Shawnee National Forest, Illinois; the Ouachita National Forest, Arkansas; Fort Chafee, Arkansas; or Eglin [78] Air Force Base, Florida; shall be processed until these lands are posted for competitive bidding in accordance with section 5102 of this subtitle. If any such tract does not receive a bid equal to or greater than the national minimum acceptable bid from a responsible qualified bidder then the noncompetitive applications or offers pending for such a tract shall be reinstated and noncompetitive leases issued under the Act of February 25, 1920, as in effect before its amendment by this subtitle, except where the issuance of any such lease would not be lawful under such provisions or other applicable law. If competitive leases are issued for any such tract, then the pending noncompetitive application or offer shall be rejected.

(c) Except as provided in subsections (a) and (b) of this section, all oil and gas leasing pursuant to the Act of February 25, 1920, after the date of enactment of this subtitle shall be conducted in accordance with the provisions of this subtitle.

30 USC 226 note.

SEC. 5107. REGULATIONS; TEST SALE.

(a) REGULATIONS.—The Secretary shall issue final regulations to implement this subtitle within 180 days after the enactment of this subtitle. The regulations shall be effective when published in the Federal Register.

Effective date.
Federal Register, publication.

(b) TREATMENT UNDER OTHER LAW.—The proposal or promulgation of such regulations shall not be considered a major Federal action subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969.

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(c) TEST SALE.—The Secretary may hold one or more lease sales conducted in accordance with the amendments made by this subtitle before promulgation of regulations referred to in subsection (a). Sale procedures for such sale shall be established in the notice of sale.

SEC. 5108. ENFORCEMENT.

The Act of February 25, 1920, is amended by inserting after section 40 the following new section:

30 USC 195.

"**SEC. 41. ENFORCEMENT.**

"(a) VIOLATIONS.—It shall be unlawful for any person:

"(1) to organize or participate in any scheme, arrangement, plan, or agreement to circumvent or defeat the provisions of this Act or its implementing regulations, or

"(2) to seek to obtain or to obtain any money or property by means of false statements of material facts or by failing to state material facts concerning:

"(A) the value of any lease or portion thereof issued or to be issued under this Act;

"(B) the availability of any land for leasing under this Act; .

"(C) the ability of any person to obtain leases under this Act; or

"(D) the provisions of this Act and its implementing regulations.

[78] Copy read "Elgin".

"(b) PENALTY.—Any person who knowingly violates the provisions of subsection (a) of this section shall be punished by a fine of not more than $500,000, imprisonment for not more than five years, or both.

"(c) CIVIL ACTIONS.—Whenever it shall appear that any person is engaged, or is about to engage, in any act which constitutes or will constitute a violation of subsection (a) of this section, the Attorney General may institute a civil action in the district court of the United States for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located, for a temporary restraining order, injunction, civil penalty of not more than $100,000 for each violation, or other appropriate remedy, including but not limited to, a prohibition from participation in exploration, leasing, or development of any Federal mineral, or any combination of the foregoing.

"(d) CORPORATIONS.—(1) Whenever a corporation or other entity is subject to civil or criminal action under this section, any officer, employee, or agent of such corporation or entity who knowingly authorized, ordered, or carried out the proscribed activity shall be subject to the same action.

"(2) Whenever any officer, employee, or agent of a corporation or other entity is subject to civil or criminal action under this section for activity conducted on behalf of the corporation or other entity, the corporation or other entity shall be subject to the same action, unless it is shown that the officer, employee, or agent was acting without the knowledge or consent of the corporation or other entity.

"(e) REMEDIES, FINES, AND IMPRISONMENT.—The remedies, penalties, fines, and imprisonment prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies, penalties, 101 STAT. 1330-261
fines, and imprisonment prescribed in this section shall be in addition to any other remedies, penalties, fines, and imprisonment afforded by any other law or regulation.

"(f) STATE CIVIL ACTIONS.—(1) A State may commence a civil action under subsection (c) of this section against any person conducting activity within the State in violation of this section. Civil actions brought by a State shall only be brought in the United States district court for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to order appropriate remedies and penalties as described in subsection (c) of this section.

"(2) A State shall notify the Attorney General of the United States of any civil action filed by the State under this subsection within 30 days of filing of the action. The Attorney General of the United States shall notify a State of any civil action arising from activity conducted within that State filed by the Attorney General under this subsection within 30 days of filing of the action.

"(3) Any civil penalties recovered by a State under this subsection shall be retained by the State and may be expended in such manner and for such purposes as the State deems appropriate. If a civil action is jointly brought by the Attorney General and a State, by more than one State or by the Attorney General and more than one State, any civil penalties recovered as a result of the joint action shall be shared by the parties bringing the action in the manner determined by the court rendering judgment in such action.

"(4) If a State has commenced a civil action against a person conducting activity within the State in violation of this section, the Attorney General may join in such action but may not institute a separate action arising from the same activity under this section. If the Attorney General has commenced a civil action against a person conducting activity within a State in violation of this section, that State may join in such action but may not institute a separate action arising from the same activity under this section.

"(5) Nothing in this section shall deprive a State of jurisdiction to enforce its own civil and criminal laws against any person who may also be subject to civil and criminal action under this section.".

SEC. 5109. PAYMENTS TO STATES.

Section 35 of the Act of February 25, 1920 (30 U.S.C. 191) is amended by adding the following at the end thereof: "In determining the amount of payments to States under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States.".

30 USC 226 note.

SEC. 5110. REPORT.

The Secretary shall submit annually for 5 years after enactment of this subtitle to the Congress a report containing appropriate information to facilitate congressional monitoring of this subtitle. Such report shall include, but not be limited to—

(1) the number of acres leased, and the number of leases issued, competitively and noncompetitively;

(2) the amount of revenue received from bonus bids, filing fees, rentals, and royalties;

(3) the amount of production from competitive and non-

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competitive leases; and

(4) such other data and information as will facilitate—

(A) an assessment of the onshore oil and gas leasing system, and

(B) a comparison of the system as revised by this subtitle with the system in operation prior to the enactment of this subtitle.

30 USC 226 note.

SEC. 5111. LAND USE STUDY.

The National Academy of Sciences and the Comptroller General of the United States shall conduct a study of the manner in which oil and gas resources are considered in the land use plans developed by the Secretary of the Interior in accordance with provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) and the Secretary of Agriculture in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476), as amended by the National Forest Management Act of 1976 (90 Stat. 2949), and recommend any improvements that may be necessary to ensure that—

(1) potential oil and gas resources are adequately addressed in planning documents;

(2) the social, economic, and environmental consequences of exploration and development of oil and gas resources are determined; and

(3) any stipulations to be applied to oil and gas leases are clearly identified.

SEC. 5112. LANDS NOT SUBJECT TO OIL AND GAS LEASING.

The Act of February 25, 1920, is amended by adding the following at the end thereof:

30 USC 226-3.

"SEC. 43. LANDS NOT SUBJECT TO OIL AND GAS LEASING.

"(a) PROHIBITION.—The Secretary shall not issue any oil and gas lease under this Act on any of the following Federal lands:

"(1) Lands recommended for wilderness allocation by the surface managing agency.

"(2) Lands within Bureau of Land Management wilderness study areas.

"(3) Lands designated by Congress as wilderness study areas, except where oil and gas leasing is specifically allowed to continue by the statute designating the study area.

"(4) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96-119), unless such lands

are allocated to uses other than wilderness by a land and resource management plan or have been released to uses other than wilderness by an act of Congress.

"(b) EXPLORATION.—In the case of any area of National Forest or public lands subject to this section, nothing in this section shall affect any authority of the Secretary of the Interior (or for National Forest Lands reserved from the public domain, the Secretary of Agriculture) to issue permits for exploration for oil and gas by means not requiring construction of roads or improvement of existing roads if such activity is conducted in a manner compatible with the preservation of the wilderness environment.".

SEC. 5113. SHORT TITLE.

Mineral Leasing Act.

The Act of February 25, 1920, is amended by inserting after section 43 the following new section:

"SEC. 44. SHORT TITLE.

30 USC 181 note.

"This Act may be cited as the 'Mineral Leasing Act'.".

Subtitle C—Land and Water Conservation Fund and Tongass Timber Supply Fund

SEC. 5201. LAND AND WATER CONSERVATION FUND ACT AMENDMENTS.

(a) ADMISSION FEES.—Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(a)) is amended as follows:

(1) Paragraph (1) is amended by striking out "$10" and inserting in lieu thereof "$25" in the first sentence.

(2) Paragraph (1) is further amended by striking out "(1)" and inserting in lieu thereof "(1)(A)" and adding the following new subparagraph at the end thereof:

"(B) For admission into a specific designated unit of the National Park System, or into several specific units located in a particular geographic area, the Secretary is authorized to make available an annual admission permit for a reasonable fee. The fee shall not exceed $15 regardless of how many units of the park system are covered. The permit shall convey the privileges of, and shall be subject to the same terms and conditions as, the Golden Eagle Passport, except that it shall be valid only for admission into the specific unit or units of the National Park System indicated at the time of purchase.".

(3) Paragraph (2) is amended by adding the following sentences at the end thereof: "The fee for a single-visit permit at any designated area applicable to those persons entering by private, noncommercial vehicle shall be no more than $5 per vehicle. The single-visit permit shall admit the permittee and all persons accompanying him in a single vehicle. The fee for a single-visit permit at any designated area applicable to those persons entering by any means other than a private noncommercial vehicle shall be no more than $3 per person. Except as otherwise provided in this subsection, the maximum fee amounts set forth in this paragraph shall apply to all designated areas.".

(4) Paragraph (3) is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this Act, no admission fee may be charged at any unit of the National Park System which provides significant outdoor recreation opportunities in an urban environment and to which access is publicly available at multiple locations.".

(5) Add the following new paragraphs:

"(6)(A) No later than 60 days after the date of enactment of this paragraph, the Secretary of the Interior shall submit to the Committee on Interior and Insular Affairs of the United States

Reports.

House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report on the entrance fees proposed to be charged at units of the National
101 STAT. 1330-264 Park System. The report shall include a list of units of the National Park System and the entrance fee proposed to be charged at each unit. The Secretary of the Interior shall include in the report an explanation of the guidelines used in applying the criteria in subsection (d).

"(B) Following submittal of the report to the respective committees, any proposed changes to matters covered in the report, including the addition or deletion of park units or the increase or decrease of fee levels at park units shall not take effect until 60 days after notice of the proposed change has been submitted to the committees.

"(7) No admission fee may be charged at any unit of the National Park System for admission of any person 16 years of age or less.

"(8) No admission fee may be charged at any unit of the National Park System for admission of organized school groups or outings conducted for educational purposes by schools or other bona fide educational institutions.

"(9) No admission fee may be charged at the following units of the National Park System: U.S.S. Arizona Memorial, Independence National Historical Park, any unit of the National Park System within the District of Columbia, Arlington House—Robert E. Lee National Memorial, San Juan National Historic Site, and Canaveral National Seashore.

"(10) For each unit of the National Park System where an admission fee is collected, the Director shall annually designate at least one day during periods of high visitation as a 'Fee-Free Day' when no admission fee shall be charged.

"(11) In the case of the following parks, the fee for a single-visit permit applicable to those persons entering by private, noncommercial vehicle (the permittee and all persons accompanying him in a single vehicle) shall be no more than $10 per vehicle and the fee for a single-visit permit applicable to persons entering by any means other than a private noncommercial vehicle shall be no more than $5 per person: Yellowstone National Park and Grand Teton National Park and after the end of fiscal year 1990, Grand Canyon National Park. In the case of Yellowstone and Grand Teton, a single-visit fee collected at one unit shall also admit the vehicle or person who paid such fee for a single-visit to the other unit.

"(12) Notwithstanding section 203 of the Alaska National Interest Lands Conservation Act, the Secretary may charge an admission fee under this section at Denali National Park and Preserve in Alaska.".

(b) VISITOR RESERVATION SERVICES.—Section 4(f) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(f)) is amended to read as follows:

Contracts. "(f) The head of any Federal agency, under such terms and conditions as he deems appropriate, may contract with any public or private entity to provide visitor reservation services. Any such contract may provide that the contractor shall be permitted to deduct a commission to be fixed by the agency head from the amount charged the public for providing such services and to remit the net proceeds therefrom to the contracting agency.".

(c) SPECIAL PROVISIONS.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a) is amended by adding
101 STAT. 1330-265 the following new subsections at the end thereof:

Contracts. "(i)(1) Except in the case of fees collected by the United States Fish and Wildlife Service or the Tennessee Valley Authority, all receipts from fees collected pursuant to this section by any Federal agency (or by any public or private entity under contract with a Federal agency) shall be covered into a special account for that

agency established in the Treasury of the United States. Fees collected by the Secretary of Agriculture pursuant to this subsection shall continue to be available for the purposes of distribution to States and counties in accordance with applicable law.

"(2) Amounts covered into the special account for each agency during each fiscal year shall, after the end of such fiscal year, be available for appropriation solely for the purposes and in the manner provided in this subsection. No funds shall be transferred from fee receipts made available under this Act to each unit of the national park system: *Provided, however,* That in making appropriations, funds derived from such fees may be used for any purpose authorized therein. Funds credited to the special account shall remain available until expended.

"(3) For agencies other than the National Park Service, such funds shall be made available for resource protection, research, interpretation, and maintenance activities related to resource protection in areas managed by that agency at which outdoor recreation is available. To the extent feasible, such funds should be used for purposes (as provided for in this paragraph) which are directly related to the activities which generated the funds, including but not limited to water-based recreational activities and camping.

"(4) Amounts covered into the special account for the National Park Service shall be allocated among park system units in accordance with subsection (j) for obligation or expenditure by the Director of the National Park Service for the following purposes:

"(A) In the case of receipts from the collection of admission fees: for resource protection, research, and interpretation at units of the National Park System.

"(B) In the case of receipts from the collection of user fees: for resource protection, research, interpretation, and maintenance activities related to resource protection at units of the National Park System.

"(j)(1) 10 percent of the funds made available to the Director of the National Park Service under subsection (i) in each fiscal year shall be allocated among units of the National Park System on the basis of need in a manner to be determined by the Director.

"(2) 40 percent of the funds made available to the Director of the National Park Service under subsection (i) in each fiscal year shall be allocated among units of the National Park System in accordance with paragraph (3) of this subsection and 50 percent shall be allocated in accordance with paragraph (4) of this subsection.

"(3) The amount allocated to each unit under this paragraph for each fiscal year shall be a fraction of the total allocation to all units under this paragraph. The fraction for each unit shall be determined by dividing the operating expenses at that unit during the prior fiscal year by the total operating expenses at all units during the prior fiscal year.

"(4) The amount allocated to each unit under this paragraph for each fiscal year shall be a fraction of the total allocation to all units under this paragraph. The fraction for each unit shall be determined by dividing the user fees and admission fees collected under this section at that unit during the prior fiscal year by the total of user fees and admission fees collected under this section at all units during the prior fiscal year.

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"(5) Amounts allocated under this subsection to any unit for any fiscal year and not expended in that fiscal year shall remain available for expenditure at that unit until expended.

"(k) When authorized by the head of the collecting agency, volunteers at designated areas may sell permits and collect fees authorized or established pursuant to this section. The head of such agency shall ensure that such volunteers have adequate training regarding—

"(1) the sale of permits and the collection of fees,

"(2) the purposes and resources of the areas in which they are assigned, and

"(3) the provision of assistance and information to visitors to the designated area.

The Secretary shall require a surety bond for any such volunteer performing services under this subsection. Funds available to the collecting agency may be used to cover the cost of any such surety bond. The head of the collecting agency may enter into arrangements with qualified public or private entities pursuant to which such entities may sell (without cost to the United States) annual admission permits (including Golden Eagle Passports) at any appropriate location. Such arrangements shall require each such entity to reimburse the United States for the full amount to be received from the sale of such permits at or before the agency delivers the permits to such entity for sale.

"(l)(1) Where the National Park Service provides transportation to view all or a portion of any unit of the National Park System, the Director may impose a charge for such service in lieu of an admission fee under this section. The charge imposed under this paragraph shall not exceed the maximum admission fee under subsection (a).

"(2) Notwithstanding any other provision of law, half of the charges imposed under paragraph (1) shall be retained by the unit of the National Park System at which the service was provided. The remainder shall be covered into the special account referred to in subsection (i) in the same manner as receipts from fees collected pursuant to this section. Fifty percent of the amount retained shall be expended only for maintenance of transportation systems at the unit where the charge was imposed. The remaining 50 percent of the retained amount shall be expended only for activities related to resource protection at such units.

"(m) Where the primary public access to a unit of the National Park System is provided by a concessioner, the Secretary may charge an admission fee at such units only to the extent that the total of the fee charged by the concessioner for access to the unit and the admission fee does not exceed the maximum amount of the admission fee which could otherwise be imposed under subsection (a).".

16 USC 460*l*-5a.

(d) REPEALS.—(1) Title I of Public Law 96-514 is amended by striking out the following provisions which appear under the heading "Land and Water Conservation Fund": "Notwithstanding the provisions of Public Law 90-401, revenues from recreation fee collections by Federal agencies shall hereafter be paid into the Land and Water Conservation Fund, to be available for appropriation for any

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or all purposes authorized by the Land and Water Conservation Fund Act of 1965, as amended, without regard to the source of such revenues.".

16 USC 460*l*-6b.

(2) Section 402 of the Act of October 12, 1979 (93 Stat. 664), is hereby repealed.

(3) The seventh paragraph of title I of the Energy and Water Development Appropriation Act, 1982, entitled "Special Recreation Use Fees" is hereby repealed.

16 USC 460*l*-5a note.
16 USC 460*l*-6a note.

(e) STUDY.—(1) The Secretary of the Interior shall assess the extent to which traffic congestion and overcrowding occurs at certain park system units during times of seasonally high usage and shall conduct a study of the following—

(A) the feasibility of reducing vehicular traffic within national park system units through fee reductions for visitors traveling by bus and through other means which could shift visitation from automobiles to buses; and

(B) the feasibility of encouraging more even seasonal distribution of visitation.

(2) The study shall include a pilot project to be carried out in Yosemite National Park. For purposes of such pilot project, the Secretary may reduce the fees for admission of various classes or categories of visitors to Yosemite National Park and may reduce the admission fees imposed at the park during seasons with low visitation. A report containing the results of the study shall be transmit-

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ted to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate within 3 years after the enactment of this Act.

(f) EXTENSION OF LAND AND WATER CONSERVATION FUND.—(1) Section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601 and following) is amended as follows: 16 USC 460*l*–5.

(A) In the matter preceding subsection (a) strike "1989" and substitute "2015".

(B) In subsection (c)(1) strike "1989" and substitute "2015".

(2) The last sentence of section 3 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601 and following) is amended to read as follows: "Moneys made available for obligation or expenditure from the fund or from the special account established under section 4(i)(1) may be obligated or expended only as provided in this Act.". 16 USC 460*l*–6.

(g) RELATIONSHIP TO FISCAL YEAR 1988 APPROPRIATIONS.—For purposes of legislation providing appropriations for the fiscal year 1988 to the Department of the Interior, the provisions of this section shall be treated as "permanent statutory language" establishing entrance fees for the National Park Service.

SEC. 5202. TONGASS TIMBER SUPPLY FUND. 16 USC 539d note.

From the period beginning on October 1, 1987, and extending until September 30, 1989, the provisions of section 705(a) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 539(d)) shall not be effective. In lieu thereof, the following provision shall apply:

"There is hereby authorized to be appropriated the sum of at least $40,000,000 annually (or such sums as the Secretary of Agriculture determines necessary) to maintain the timber supply from the Tongass National Forest to dependent industry at a rate of 4,500,000,000 foot board measure per decade."

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Subtitle D—Reclamation

SEC. 5301. SALE OF BUREAU OF RECLAMATION LOANS. 43 USC 421b note.

(a) SALE.—The Secretary of the Interior (hereinafter in this section referred to as the "Secretary"), under such terms as the Secretary shall prescribe, shall sell or otherwise dispose of loans made pursuant to the Distribution System Loans Act (43 U.S.C. 421a–421d), the Small Reclamation Projects Act (43 U.S.C. 422a–422l), and the Rehabilitation and Betterment Act (43 U.S.C. 504–505) in such amounts as to realize net proceeds to the Federal Government of not less than $130,000,000 in the fiscal year ending September 30, 1988. In the conduct of such sales, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the borrowers under the contracts executed to provide for repayment of such loans. Contracts.

(b) SAVINGS PROVISIONS.—Nothing in this section, including the prepayment or other disposition of any loan or loans, shall—

(1) except to the extent that prepayment may have been authorized heretofore, relieve the borrower from the application of the provisions of Federal Reclamation law (Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto, including the Reclamation Reform Act of 1982), including acreage limitations, to the extent such provisions would apply absent such prepayment, or

(2) authorize the transfer of title to any federally owned facilities funded by the loans specified in subsection (a) of this section without a specific Act of Congress.

(c) FEES AND EXPENSES OF PROGRAM.—Proceeds from the conduct of the program authorized by this section shall be first used to pay

the fees and expenses of such program and the net proceeds shall be deposited in the Treasury of the United States as miscellaneous receipts.

(d) TERMINATION.—The authority granted by this section to sell or otherwise dispose of loans shall terminate on December 31, 1988.

SEC. 5302. RECLAMATION REFORM ACT AMENDMENTS.

43 USC 390ww.

(a) AUDIT.—Section 224 of the Reclamation Reform Act of 1982 (Public Law 97-293) is amended by adding the following new subsections after subsection (f):

"(g) In addition to any other audit or compliance activities which may otherwise be undertaken, the Secretary of the Interior, or his designee, shall conduct a thorough audit of the compliance with the reclamation law of the United States, specifically including this Act, by legal entities and individuals subject to such law. At a minimum, the Secretary shall complete audits of those legal entities and individuals whose landholdings or operations exceed 960 acres within 3 years. The Secretary shall submit an annual written report to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs. Such report shall summarize the legal entities and individuals audited, the results of such audits, and the actions taken by the Secretary to correct any instances of noncompliance with the reclamation law.

Reports.

Contracts.

"(h) The provisions of section 205(c) are and have been applicable to all recordable contracts executed prior to October 12, 1982, and any decision, rule, or regulation promulgated by the Department of the Interior to the contrary is hereby revoked: *Provided,* That notwithstanding the provisions of subsection (i), the Secretary shall not seek reimbursement for any amounts due under this subsection or section 205(c) which was due prior to the date of enactment of this subsection.

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"(i) When the Secretary finds that any individual or legal entity subject to reclamation law, including this Act, has not paid the required amount for irrigation water delivered to a landholding pursuant to reclamation law, including this Act, he shall collect the amount of any underpayment with interest accruing from the date the required payment was due until paid. The interest rate shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest bearing marketable issues sold by the Treasury during the period of underpayment.".

43 USC 390nn.

(b) REVOCABLE TRUSTS.—Section 214 of the Reclamation Reform Act of 1982 (Public Law 97-293) is amended by inserting "(a)" after "214" and by adding the following new subsection at the end thereof:

"(b) Lands placed in a revocable trust shall be attributable to the grantor if—

"(1) the trust is revocable at the discretion of the grantor and revocation results in the title to such lands reverting either directly or indirectly to the grantor; or

"(2) the trust is revoked or terminated by its terms upon the expiration of a specified period of time and the revocation or termination results in the title to such lands reverting either directly or indirectly to the grantor.".

Subtitle E—Panama Canal

SEC. 5401. REFERENCE TO THE PANAMA CANAL ACT OF 1979.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Panama Canal Act of 1979 (22 U.S.C. 3601 and following).

PART 1—PANAMA CANAL REAUTHORIZATION

SEC. 5411. OPERATING EXPENSES.

There is authorized to be appropriated from the Panama Canal Commission Fund to the Panama Canal Commission (hereafter in this part referred to as the "Commission") for the fiscal year beginning October 1, 1987, not to exceed $467,050,000, for necessary expenses of the Commission incurred under the Panama Canal Act of 1979 (22 U.S.C. 3601 and following), including expenses for—

(1) the hire of passenger motor vehicles and aircraft;

(2) the purchase of passenger motor vehicles as may be necessary for fiscal year 1988, the number and price of which shall not exceed the amount provided in appropriation Acts; except that large heavy-duty passenger sedans used to transport Commission employees across the Isthmus of Panama may be purchased for fiscal year 1988 without regard to price limitations set forth in applicable regulations of any department or agency of the United States;

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(3) official receptions and representation expenses, except that not more than $43,000 may be made available for such expenses, of which (A) not more than $10,000 may be made available for such expenses of the Supervisory Board of the Commission, (B) not more than $5,000 may be made available for such expenses of the Secretary of the Commission, and (C) not more than $28,000 may be made available for such expenses of the Administrator of the Commission;

(4) the procurement of expert and consultant services as provided in section 3109 of title 5, United States Code;

(5) a residence for the Administrator of the Commission;

(6) uniforms, or allowances therefor, as authorized by section 5901 and 5902 of title 5, United States Code;

(7) disbursements by the Administrator of the Commission for employee recreation and community projects; and

(8) the operation of guide services.

SEC. 5412. CAPITAL OUTLAY.

Of any funds appropriated pursuant to section 5411, not more than $37,000,000 (which is authorized to remain available until expended) may be made available for the acquisition, construction, replacement and improvements of facilities, structures, and equipment required by the Commission.

SEC. 5413. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

In addition to the amount authorized to be appropriated by section 5411, there are authorized to be appropriated to the Commission for the fiscal year 1988 such amounts as may be necessary for—

(1) increases in salary, pay, retirement, and other employee benefits provided by law;

(2) covering payments to Panama under paragraph 4(a) of Article XIII of the Panama Canal Treaty of 1977, as provided by section 1341(a) of the Panama Canal Act of 1979 (22 U.S.C. 3751(a)); and

(3) increased costs for fuel.

SEC. 5414. INSURANCE.

Section 1419 (22 U.S.C. 3779) is amended by inserting "or other unpredictable events" after "marine accidents".

SEC. 5415. AUTHORITY TO LEASE OFFICE SPACE.

Contracts.
22 USC 3712a.

Notwithstanding section 210 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490), the Commission is authorized to negotiate directly and enter into contracts for the lease of, and for improvements to, real property in the United States for use by the Commission as office space, on such terms as the Commission considers to be in the interest of the United States, and to make direct payments therefor.

SEC. 5416. COMPENSATION OF BOARD MEMBERS.

Section 1102(b) (22 U.S.C. 3612(b)) is amended by inserting before the period at the end thereof the following: "or, as authorized by the Chairman of the Board, while on [79] official Panama Canal Commission business".

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SEC. 5417. SETTLEMENT OF CLAIMS.

(a) SETTLEMENT OF CLAIMS.—Section 1401(b) (22 U.S.C. 3761(b)) is amended to read as follows:

"(b) The Commission may pay not more than $50,000 on any claim described in subsection (a).".

(b) INJURIES TO VESSELS WITHOUT PILOTS.—Section 1411(b)(1) (22 U.S.C. 3771(b)(1)) is amended by striking out "adjust and pay" and all that follows through "$50,000" and inserting in lieu thereof "pay not more than $50,000 on the claim".

22 USC 3871 note.

SEC. 5418. REPORT TO CONGRESS.

Out of the funds authorized to be appropriated by this part, the Commission shall prepare and submit to the Congress a report on—

(1) the condition of the Panama Canal and potential adverse effects on United States shipping and commerce;

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(2) the effect on canal operations of the military forces under General Noriega; and

(3) the Commission's evaluation of the effect on canal operations if the Panamanian Government continues to withhold its consent to major factors in the United States Senate's ratification of the Panama Canal Treaties.

PART 2—PANAMA CANAL REVOLVING FUND

Panama Canal Revolving Fund Act.
22 USC 3601 note.

SEC. 5421. SHORT TITLE.

This part may be referred to as the "Panama Canal Revolving Fund Act".

SEC. 5422. ESTABLISHMENT OF REVOLVING FUND.

(a) ESTABLISHMENT.—Section 1302 (22 U.S.C. 3712) is amended by striking out subsections (a) through (d) and inserting in lieu thereof the following:

"SEC. 1302. (a)(1) There is established in the Treasury of the United States a revolving fund to be known as the 'Panama Canal Revolving Fund'. The Panama Canal Revolving Fund shall, subject to subsection (c), be available to the Commission to carry out the purposes, functions, and powers authorized by this Act, including for—

"(A) the hire of passenger motor vehicles and aircraft;

"(B) uniforms or allowances therefor, as authorized by sections 5901 and 5902 of title 5, United States Code;

"(C) official receptions and representation expenses of the Board, the Secretary of the Commission, and the Administrator;

"(D) the operation of guide services;

"(E) a residence for the Administrator;

"(F) disbursements by the Administrator for employee and community projects; and

"(G) the procurement of expert and consultant services as provided in section 3109 of title 5, United States Code.

"(2) On the effective date of the Panama Canal Revolving Fund Act—

"(A) the Panama Canal Commission Fund shall be terminated and the unappropriated balance, including undeposited receipts as of the close of business on the day before the effective date of the Panama Canal Revolving Fund Act, shall be transferred to the Panama Canal Revolving Fund;

[79] Copy read "an".

"(B) the unexpended balance of appropriations to the Commission, as of the close of business on the day before the effective date of the Panama Canal Revolving Fund Act, shall be transferred to the Panama Canal Revolving Fund, and such amounts, including amounts appropriated for capital expenditures, shall remain available until expended; 101 STAT. 1330-272

"(C) the assets and liabilities recorded before such effective date under the 'Panama Canal Commission Fund' shall be recorded under the Panama Canal Revolving Fund; and

"(D) the Panama Canal Emergency Fund shall be terminated and the remaining balance shall be transferred to the Panama Canal Revolving Fund.

"(b) Upon completion of the transfers of funds under subsection (a)—

"(1) amounts attributable to interest on the investment of the United States in the Panama Canal which accrued before January 1, 1986, shall be transferred from the Panama Canal Revolving Fund to the general fund of the Treasury; and

"(2) such amounts as were appropriated to the Commission in the fiscal year which ended September 30, 1980, and for which the Commission has not reimbursed the general fund of the Treasury, shall be transferred to the general fund of the Treasury.

"(c)(1) There shall be deposited in the Panama Canal Revolving Fund, on a continuing basis, toll receipts and all other receipts of the Commission. Except as provided in section 1303 and subject to paragraph (2), no funds may be obligated or expended by the Commission in any fiscal year unless such obligation or expenditure has been specifically authorized by law.

"(2) No funds may be obligated or expended by the Commission in any fiscal year for administrative expenses except to the extent or in such amounts as are provided in appropriations Acts.

"(3) No funds may be authorized for the use of the Commission, or obligated or expended by the Commission in any fiscal year in excess of—

"(A) the amount of revenues deposited in the Panama Canal Revolving Fund during such fiscal year, plus

"(B) the amount of revenues deposited in the Panama Canal Revolving Fund before such fiscal year and remaining unexpended at the beginning of such fiscal year.

Not later than 30 days after the end of each fiscal year, the Secretary of the Treasury shall report to the Congress the amount of revenues deposited in the Panama Canal Revolving Fund during such fiscal year. Reports.

"(d) With the approval of the Secretary of the Treasury, the Commission may deposit amounts in the Panama Canal Revolving Fund in any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Commission and the Secretary may agree.

"(e) The Committee on Appropriations of each House of Congress shall review the annual budget of the Commission, including operations and capital expenditures.".

(b) CONFORMING AMENDMENTS.—(1) The section heading for section 1302 is amended to read as follows: 22 USC 3712. 101 STAT. 1330-273

"PANAMA CANAL REVOLVING FUND".

(2) The item relating to section 1302 in the table of contents of the Panama Canal Act of 1979 is amended to read as follows:

"1302. Panama Canal Revolving Fund.".

SEC. 5423. EMERGENCY AUTHORITY.

(a) GRANT OF AUTHORITY.—Section 1303 (22 U.S.C. 3713) is amended to read as follows:

"SEC. 1303. If authorizing legislation described in section 1302(c)(1) has not been enacted for a fiscal year, then the Commission may withdraw funds from the Panama Canal Revolving Fund in order to defray emergency expenses and to ensure the continuous, efficient, and safe operation of the Panama Canal, including expenses for capital projects. The authority of this section may not be used for administrative expenses. The authority of this section may be exercised only until authorizing legislation described in section 1302(c)(1) is enacted, or for a period of 24 months after the end of the fiscal year for which such authorizing legislation was last enacted, whichever occurs first. Within 60 days after the end of any calendar quarter in which expenditures are made under this section, the Commission shall report such expenditures to the appropriate committees of the Congress.".

Reports.

(b) CONFORMING AMENDMENTS.—(1) The section heading for section 1303 is amended by striking out "FUND" and inserting in lieu thereof "AUTHORITY".

22 USC 3713.

(2) The item relating to section 1303 in the table of contents of the Panama Canal Act of 1979 is amended by striking out "fund" and inserting in lieu thereof "authority".

SEC. 5424. BORROWING AUTHORITY.

(a) GRANT OF AUTHORITY.—Subchapter I of chapter 3 of title I (22 U.S.C. 3711 and following) is amended by adding at the end thereof the following new section:

"BORROWING AUTHORITY

22 USC 3714.

"SEC. 1304. (a) The Panama Canal Commission may borrow from the Treasury, for any of the purposes of the Commission, not more than $100,000,000 outstanding at any time. For this purpose, the Commission may issue to the Secretary of the Treasury its notes or other obligations—

"(1) which shall have maturities (of not later than December 31, 1999) agreed upon by the Commission and the Secretary of the Treasury, and

"(2) which may be redeemable at the option of the Commission before maturity.

"(b) Amounts borrowed under this section shall not be available for payments to Panama under Article XIII of the Panama Canal Treaty of 1977.

"(c) Amounts borrowed under this section shall increase the investment of the United States in the Panama Canal, and repayment of such amounts shall decrease such investment.

Reports.

"(d) The Commission shall report to the Congress and to the Office of Management and Budget on each exercise of borrowing authority under this section.".

101 STAT. 1330-274

(b) CONFORMING AMENDMENT.—The table of contents of the Panama Canal Act of 1979 is amended by inserting after the item relating to section 1303 the following:

"1304. Borrowing authority.".

SEC. 5425. CALCULATION OF INTEREST.

(a) CALCULATION OF INTEREST.—Section 1603 (22 U.S.C. 3793) is amended—

(1) in subsection (b)(1)(A), by striking out "appropriations to the Commission made on or after the effective date of this Act" and inserting in lieu thereof "the Panama Canal Revolving Fund,";

(2) in subsection (b)(2)(A), by striking out "covered into the Panama Canal Commission Fund pursuant to section 1302 of this Act" and inserting in lieu thereof "deposited in the Panama Canal Revolving Fund"; and

(3) by adding at the end thereof the following new subsection: "(d) The Panama Canal Commission shall pay to the Treasury of the United States interest on the investment of the United States, as determined under this section. Such interest shall be deposited in the general fund of the Treasury.".

SEC. 5426. PAYMENTS TO THE REPUBLIC OF PANAMA.

The second sentence of section 1341(e) (22 U.S.C. 3751(e)) is amended—

(1) by striking out "and" before "(6)"; and

(2) by inserting before the period ", and (7) amounts programmed to meet working capital requirements".

SEC. 5427. BASES OF TOLLS.

Section 1602(b) (22 U.S.C 3792(b)) is amended by inserting "working capital," after "depreciation,".

SEC. 5428. TECHNICAL AND CONFORMING AMENDMENTS.

(a) APPLIANCES FOR EMPLOYEES INJURED BEFORE SEPTEMBER 7, 1916.—Section 1246 (22 U.S.C. 3683) is amended by striking out "appropriated" and inserting in lieu thereof "available".

(b) DISASTER RELIEF.—Section 1343 (22 U.S.C. 3753) is amended by striking out "available funds appropriated" and inserting in lieu thereof "funds available".

(c) CONGRESSIONAL RESTRAINTS ON PROPERTY TRANSFERS AND TAX EXPENDITURES.—Section 1344(b)(4) (22 U.S.C. 3754(b)(4)) is amended—

(1) by striking out "appropriated to or" and inserting in lieu thereof "available"; and

(2) by striking out "Panama Canal Commission Fund" and inserting in lieu thereof "Panama Canal Revolving Fund".

(d) CIVIL SERVICE RETIREMENT AND DISABILITY FUND.—Section 8348(i)(2) of title 5, United States Code, is amended by striking out "The Secretary of the Treasury shall pay to the Fund from appropriations" and inserting in lieu thereof "The Panama Canal Commission shall pay to the Fund from funds available to it".

(e) CANAL ZONE GOVERNMENT FUNDS.—Section 1301 (22 U.S.C. 3711) is amended—

(1) by amending the second sentence to read as follows: "The Commission may, to the extent of funds available to it, pay claims or make payments chargeable to such accounts, upon proper audit of such claims or payments."; and

(2) by striking out the third sentence.

101 STAT. 1330-275

SEC. 5429. EFFECTIVE DATE.

22 USC 3683 note.

This part and the amendments made by this part take effect on January 1, 1988.

Subtitle F—Abandoned Mine Funds in Wyoming

SEC. 5501. ALLOCATION OF ABANDONED MINE RECLAMATION FUNDS IN WYOMING.

Notwithstanding any other provision of law, the State of Wyoming may, subject to a plan approved by the Governor, expend not more than $2,000,000 from its allocation of fiscal year 1987 appropriated funds under section 402(g) of Public Law 95-87 for direct assistance to citizens evacuated from their homes in the Rawhide and Horizon Subdivisions in Campbell County, Wyoming, due to hazards from methane and hydrogen sulfide gases.

Subtitle G—Nuclear Regulatory Commission User Fees

SEC. 5601. USER FEES.

42 USC 2213.

Section 7601(b)(1)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272; 100 Stat. 147) is amended by inserting "; except that for fiscal years 1988 and 1989, such percentage shall be increased an additional 6 percent of such costs plus all other assessments made by the Nuclear Regulatory Commission pursuant to House Joint Resolution 395, 100th Congress, 1st Session, as enacted; but in no event shall such percentage be less than a total of 45 percent of such costs in each such fiscal year" after "with respect to such fiscal year".

TITLE VI—CIVIL SERVICE AND POSTAL SERVICE PROGRAMS

5 USC 8343a note.

SEC. 6001. PARTIAL DEFERRED PAYMENT OF LUMP-SUM CREDIT FOR CERTAIN INDIVIDUALS ELECTING ALTERNATIVE FORMS OF ANNUITIES.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (c), any lump-sum credit payable to an employee or Member pursuant to the election of an alternative form of annuity by such employee or Member under section 8343a or section 8420a of title 5, United States Code, shall be paid in accordance with the schedule under subsection (b) (instead of the schedule which would otherwise apply), if the commencement date of the annuity payable to such employee or Member occurs after January 3, 1988, and before October 1, 1989.

(b) SCHEDULE OF PAYMENTS.—The schedule of payment of any
101 STAT. 1330-276 lump-sum credit subject to this section is as follows:

(1) 60 percent of the lump-sum credit shall be payable on the date on which, but for the enactment of this section, the full amount of the lump-sum credit would otherwise be payable.

(2) The remainder of the lump-sum credit shall be payable on the date which occurs 12 months after the date described in paragraph (1).

An amount payable in accordance with paragraph (2) shall be payable with interest, computed using the rate under section 8334(e)(3) of title 5, United States Code.

Regulations.

(c) EXCEPTIONS.—The Office of Personnel Management shall prescribe regulations under which this section shall not apply—

(1) in the case of any individual who is separated from Government service involuntarily, other than for cause on charges of misconduct or delinquency; and

(2) in the case of any individual as to whom the application of this section would be against equity and good conscience, due to a life-threatening affliction or other critical medical condition affecting such individual.

(d) ANNUITY BENEFITS NOT AFFECTED.—Nothing in this section shall affect the commencement date, the amount, or any other aspect of any annuity benefits payable under section 8343a or section 8420a of title 5, United States Code.

(e) DEFINITIONS.—For purposes of this section, the terms "lump-sum credit", "employee", and "Member" each has the meaning given such term by section 8331 or section 8401 of title 5, United States Code, as appropriate.

39 USC 2003 note.

SEC. 6002. CONTRIBUTIONS BY THE UNITED STATES POSTAL SERVICE TO THE CIVIL SERVICE RETIREMENT AND DISABILITY FUND.

(a) ESTABLISHMENT OF POSTAL SERVICE ESCROW FUND.—There is established as a separate account in the United States Treasury, the "Postal Service Escrow Fund".[79a] Such Fund shall—

[79a] Copy read "Fund." ".

(1) have such amounts described under subsection (b)(2) deposited no later than October 31, 1988;

(2) not be available for expenditures of any amounts therein during the existence of such Fund; and

(3) cease to exist on October 1, 1989, and on such date all amounts deposited in such Fund under subsection (b)(2) shall be deposited in the Postal Service Fund established under section 2003 of title 39, United States Code.

(b) DEPOSIT OF CERTAIN SAVINGS IN CERTAIN FUNDS.—

(1) FISCAL YEAR 1988.—From all funds available to the United States Postal Service in fiscal year 1988, the Postal Service shall deposit into the Civil Service Retirement and Disability Fund established under section 8348 of title 5, United States Code, an amount of $350,000,000 in fiscal year 1988, in addition to any amount deposited pursuant to subsection (h) of such section.

(2) FISCAL YEAR 1989.—From all funds available to the United States Postal Service in fiscal year 1989, the Postal Service shall deposit into the Postal Service Escrow Fund an amount of $465,000,000 no later than October 31, 1988.

(c) CAPITAL LIMITATIONS FOR FISCAL YEARS 1988 AND 1989.—

(1) The United States Postal Service may not make any commitment or obligation to expend any monies deposited in the Postal Service Fund established under section 2003 of title 39, United States Code, for the capital investment program—

(A) in excess of $625,000,000 in fiscal year 1988; and 101 STAT. 1330-277

(B) in excess of $1,995,000,000 in fiscal year 1989.

(2) CAPITAL INVESTMENT PROGRAMS.—For the purposes of paragraph (1) the term "capital investment program" shall include all investments in long-term assets and capital investment expenditures (including direct and indirect costs associated with such investments and expenditures, such as obligations through contracts).

SEC. 6003. CONTRIBUTIONS BY THE UNITED STATES POSTAL SERVICE TO THE EMPLOYEES HEALTH BENEFITS FUND. 5 USC 8906 note.

(a) CONTRIBUTIONS FOR CERTAIN ANNUITANTS OF THE UNITED STATES POSTAL SERVICE.—As partial payment to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, for benefits of certain annuitants and survivor annuitants (no portion of the cost of which was paid by the Postal Service before the date of enactment of this section) the Postal Service shall pay into the Employee Health Benefits Fund $160,000,000 in fiscal year 1988, and $270,000,000 in fiscal year 1989 in addition to any amount deposited into such Fund pursuant to section 8906 of such title 5 in each such fiscal year.

(b) PAYMENT LIMITATIONS IN FISCAL YEARS 1988 AND 1989.—The partial payment required by subsection (a) of this section shall—

(1) be from all funds available to the United States Postal Service in each such fiscal year;

(2) be from funds representing savings to the United States Postal Service resulting from savings from the operating budget of the United States Postal Service in each such fiscal year; and

(3) be paid into such Fund in each such fiscal year, without—

(A) increasing borrowing under section 2005 of title 39, United States Code;

(B) using any budgetary resources other than budgetary resources derived from the operating budget of the United States Postal Service; or

(C) increasing postal rates under chapter 36 of title 39, United States Code,

for the purposes of financing such payment.

(c) IMPLEMENTATION PLANS, PROGRESS REPORTS, AND COMPLIANCE FOR FISCAL YEARS 1988 AND 1989.—

(1) IMPLEMENTATION.—No later than March 1, 1988 for fiscal year 1988, and October 1, 1988 for fiscal year 1989, the United States Postal Service shall—

(A) formulate an implementation plan specifically enumerating the methods by which the Postal Service shall make the payments required under subsection (b) and fulfill the conditions required under paragraphs (1), (2), and (3) of such subsection; and

(B) submit such plan to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives.

(2) INTERIM REPORT.—No later than July 15, 1988 for fiscal year 1988, and March 1, 1989 for fiscal year 1989, the United States Postal Service shall submit an interim report to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives on the status of meeting the guidelines and goals of the plans submitted under paragraph (1)(B), and any
101 STAT. 1330-278 adjustments necessary to meet the requirements under the provisions of subsection (b) of this section for each such fiscal year.

(3) PRELIMINARY AUDIT AND REPORT BY THE GENERAL ACCOUNTING OFFICE.—No later than September 1, 1988 for fiscal year 1988, and September 1, 1989 for fiscal year 1989, the General Accounting Office shall—

(A) conduct an audit of the plans and adjustments to the plans submitted by the United States Postal Service under paragraphs (1) and (2) of this subsection and determine the extent of compliance of the Postal Service with such plans and the requirements of subsection (b) of this section; and

(B) submit a report of such audit and determinations to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives.

[80] (4) DETERMINATION OF COMPLIANCE.—On October 31, 1988 for fiscal year 1988, and on October 31, 1989 for fiscal year 1989, the General Accounting Office shall—

(A) make a final audit and determination of whether the United States Postal Service is in compliance with the requirements of subsection (b) of this section;

(B) submit a final report for each such fiscal year on such compliance to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives; and

(C) include in each final report submitted under subparagraph (B), such recommendations (if applicable) for any actions to enforce compliance with the provisions of subsection (b) of this section.

(5) COMPLIANCE IN FISCAL YEARS 1988 AND 1989.—Based on the determination of compliance required by subsection (c)(4) of this section for fiscal years 1988 and 1989, the Congress shall (after receiving the recommendation of the General Accounting Office under paragraph (4)(C)) determine appropriate action, if necessary, to enforce compliance with any payment limitation under subsection (b) of this section.

SEC. 6004. TECHNICAL CLARIFICATION.

For purposes of section 202 of the Balanced Budget and Emergency Deficit Reaffirmation Act of 1987, the amendments made by this title shall be considered an exception under subsection (b) of such section.

[80] Paragraphs "(4)", "(A)", "(B)", and "(C)", indented wrong.

TITLE VII—VETERANS' PROGRAMS

SEC. 7001. SALES OF VENDEE LOANS WITH OR WITHOUT RECOURSE.

Section 1816(d) of title 38, United States Code, is amended—

(1) by redesignating paragraph (3) as subparagraph (C);

(2) by inserting after paragraph (2) the following:

"(3)(A) Before October 1, 1989, notes evidencing such loans may be sold with or without recourse as determined by the Administrator, with respect to specific proposed sales of such notes, to be in the best interest of the effective functioning of the loan guaranty program under this chapter, taking into consideration the comparative cost-effectiveness of each type of sale. In comparing the cost-effectiveness of conducting a proposed sale of such notes with recourse or without recourse, the Administrator shall, based on available estimates regarding likely market conditions and other pertinent factors as of the time of the sale, determine and consider— 101 STAT. 1330-279

"(i) the average amount by which the selling price for such notes sold with recourse would exceed the selling price for such notes if sold without recourse; and

"(ii) the total cost of selling such notes with recourse, including—

"(I) any estimated discount or premium;

"(II) the projected cost, based on Veterans' Administration experience with the sale of notes evidencing vendee loans with recourse and the quality of the loans evidenced by the notes to be sold, of repurchasing defaulted notes;

"(III) the total servicing cost with respect to repurchased notes, including the costs of taxes and insurance, collecting monthly payments, servicing delinquent accounts, and terminating insoluble loans;

"(IV) the costs of managing and disposing of properties acquired as the result of defaults on such notes;

"(V) the loss or gain on resale of such properties; and

"(VI) any other cost determined appropriate by the Administrator.

"(B) Not later than 60 days after making any sale described in subparagraph (A) of this paragraph occurring before October 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report describing— Reports.

"(i) the application of the provisions of such subparagraph, and each of the determinations required thereunder, in the case of such sale;

"(ii) the results of the sale in comparison to the anticipated results; and

"(iii) actions taken by the Administrator to facilitate the marketing of the notes involved."; and

(3) in subparagraph (C), as redesignated by clause (1) of this section—

(A) by striking out "The Administrator may sell any note securing" and inserting in lieu thereof "Beginning on October 1, 1989, the Administrator may sell any note evidencing"; and

(B) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively.

SEC. 7002. LOAN FEE EXTENSION.

Section 1829(c) of title 38, United States Code, is amended by striking out "1987" and inserting in lieu thereof "1989".

SEC. 7003. CASH SALES OF PROPERTIES ACQUIRED THROUGH FORECLOSURES.

(a) IN GENERAL.—Section 1816(d)(1) of title 38, United States Code, is amended by striking out "not more than 75 percent, nor less than

60 percent," in the first sentence and inserting in lieu thereof "not more than 65 percent, nor less than 50 percent,".

38 USC 1816 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of October 1, 1987.

101 STAT. 1330-280

SEC. 7004. STATUTORY CONSTRUCTION.

(a) STATUTORY CONSTRUCTION FOR PURPOSES OF THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL REAFFIRMATION ACT OF 1987.—For the purposes of subsections (a) and (b) of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), the amendments made by section 7003 achieve savings made possible by changes in program requirements.

38 USC 1816 note.

(b) RULE FOR CONSTRUCTION OF DUPLICATE PROVISIONS.—In applying the provisions of this title and the provisions of the Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987 which make the same amendments as the provisions of this title—

(1) the identical provisions of title 38, United States Code, amended by the provisions of this title and the provisions of such Act shall be treated as having been amended only once; and

(2) in executing to title 38, United States Code, the amendments made by this title and by such Act, such amendments shall be executed so as to appear only once in the law.

TITLE VIII—BUDGET POLICY AND FISCAL PROCEDURES

SEC. 8001. DEFENSE AND DOMESTIC DISCRETIONARY SPENDING LIMITS.

(a) AGGREGATE ALLOCATIONS FOR DEFENSE.—The levels of budget authority and budget outlays for fiscal years 1988 and 1989 for major functional category 050 (National Defense) shall be:

(1) Fiscal year 1988:
  (A) New budget authority, $292,000,000,000.
  (B) Outlays, $285,400,000,000.

(2) Fiscal year 1989:
  (A) New budget authority, $299,500,000,000.
  (B) Outlays, $294,000,000,000.

(b) AGGREGATE ALLOCATIONS FOR DOMESTIC DISCRETIONARY SPENDING.—The levels of total budget authority and total budget outlays for fiscal years 1988 and 1989 for all discretionary spending in categories other than major functional category 050 (National Defense) shall be:

(1) Fiscal year 1988:
  (A) New budget authority, $162,900,000,000.
  (B) Outlays, $176,800,000,000.

(2) Fiscal year 1989:
  (A) New budget authority, $166,200,000,000.
  (B) Outlays, $185,300,000,000.

(c) FISCAL YEAR 1989 BUDGET RESOLUTION.—

(1) HOUSE OF REPRESENTATIVES.—The Committee on the Budget of the House of Representatives [81] shall report a concurrent resolution on the budget for fiscal year 1989, pursuant to section 301 of the Congressional Budget Act of 1974, in accordance with the appropriate levels of budget authority and budget outlays for major functional category 050 (National Defense) and for all discretionary spending in categories other than

[81] Copy read "Representative".

major functional category 050 as set forth in subsections (a)(2) and (b)(2). 101 STAT. 1330-281

(2) POINT OF ORDER IN THE SENATE ON AGGREGATE ALLOCATIONS FOR DEFENSE AND DOMESTIC DISCRETIONARY SPENDING FOR FISCAL YEAR 1989.—

(A) Except as provided in subparagraph (E), it shall not be in order in the Senate to consider any concurrent resolution on the budget for fiscal year 1989 (including a conference report thereon), or any amendment to such a resolution, that would fail to be consistent with the allocations in subsections (a) and (b) for such fiscal year.

(B) Subparagraph (A) may be waived or suspended by a vote of three-fifths of the Members of the Senate, duly chosen and sworn.

(C) If the ruling of the presiding officer of the Senate sustains a point of order raised pursuant to subparagraph (A), a vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of such ruling. Debate on any such appeal shall be limited to two hours, to be equally divided between, and controlled by, the Majority and Minority Leaders, or their designees.

(D) For purposes of this paragraph, the levels of new budget authority, spending authority as described in section 401(c)(2), outlays, and new credit authority for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(E) This paragraph shall not apply if a declaration of war by the Congress is in effect or if a resolution pursuant to section 254(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

(d) ALLOCATIONS PURSUANT TO FISCAL YEAR 1989 BUDGET RESOLUTION.—(1) The allocations required to be included in the joint explanatory statement accompanying the conference report on the concurrent resolution on the budget for fiscal year 1989, pursuant to section 302(a) of the Congressional Budget Act of 1974, shall be based upon the levels set forth in subsections (a)(2) and (b)(2) of this section.

(2) The Committee on Appropriations of each House shall, after consulting with the Committee on Appropriations of the other House, make the subdivisions required under section 302(b)(1) of the Congressional Budget Act of 1974 consistent with the allocations in subsections (a)(2) and (b)(2) for fiscal year 1989.

SEC. 8002. RESTORATION OF FUNDS SEQUESTERED. 2 USC 902 note.

(a) ORDER RESCINDED.—Upon the enactment of this Act and House Joint Resolution 395, 100th Congress,[82] 1st session, the orders issued by the President on October 20, 1987, and November 20, 1987, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 are hereby rescinded. 3 CFR, 1987 Comp., pp. 311, 315.

(b) AMOUNTS RESTORED.—Except as otherwise provided in sections 4001, 4041(b), and 4061, any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequesterable resource that has been reduced or sequestered by such orders is hereby restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued. 101 STAT. 1330-282

SEC. 8003. TECHNICAL AMENDMENTS TO THE CONGRESSIONAL BUDGET ACT OF 1974.

(a) REFERENCES IN SECTION.—Except as otherwise specifically provided, whenever in this section an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other

[82] Copy read "Congres".

provision of the Congressional Budget and Impoundment Control Act of 1974.

88 Stat. 297.

(b) REVISION OF TABLE OF CONTENTS.—Section 1(b) is amended by striking "Disapproval of proposed deferrals" and inserting "Proposed deferrals".

(c) REDESIGNATION OF SUBPARAGRAPH HEADINGS.—Section 3(7) (as amended by section 106(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by—

2 USC 622.

(1) striking section 3(7)(C);
(2) redesignating section 3(7)(D) as 3(7)(C);
(3) redesignating section 3(7)(E) as 3(7)(D);
(4) redesignating section 3(7)(F) as 3(7)(E);
(5) redesignating section 3(7)(G) as 3(7)(F);
(6) redesignating section 3(7)(H) as 3(7)(G); and
(7) redesignating section 3(7)(I) as 3(7)(H).

(d) GRAMMATICAL CLARIFICATION OF SECTION 305(c).—Section 305(c) (as amended by section 209 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by inserting a comma after "therewith".

2 USC 636.

(e) SUBSTITUTION OF "PROPOSED" FOR "MADE" WITH REGARD TO AMENDMENTS IN COMMITTEE.—Section 252(c)(2)(F)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by section 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by striking "made" and inserting "proposed".

2 USC 902.

(f) CLARIFICATION OF BUDGET BASELINE.—Section 251(a)(6)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by section 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by striking out "and" before "contract authority" and by inserting before the semicolon at the end thereof the following: ", and that authority to provide insurance through the Federal Housing Administration Fund is continued".

2 USC 901.

1 USC 106 note.

SEC. 8004. PREPARATION OF PRINTED ENROLLED BILL.

(a) PREPARATION OF PRINTED ENROLLMENT.—(1) Upon the enactment of this Act enrolled as a hand enrollment, the Clerk of the House of Representatives shall prepare a printed enrollment of this Act as in the case of a bill or joint resolution to which sections 106 and 107 of title 1, United States Code, apply. Such enrollment shall be a correct enrollment of this Act as enrolled in the hand enrollment.

(2) A printed enrollment prepared pursuant to paragraph (1) may, in order to conform to customary style for printed laws, include corrections in spelling, punctuation, indentation, type face, and type size and other necessary stylistic corrections to the hand enrollment. Such a printed enrollment shall include notations (in the margins or as otherwise appropriate) of all such corrections.

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(b) TRANSMITTAL TO PRESIDENT.—A printed enrollment prepared pursuant to subsection (a) shall be signed by the presiding officers of both Houses of Congress as a correct printing of the hand enrollment of this Act and shall be transmitted to the President.

(c) CERTIFICATION BY PRESIDENT; LEGAL EFFECT.—Upon certification by the President that a printed enrollment transmitted pursuant to subsection (b) is a correct printing of the hand enrollment of this Act, such printed enrollment shall be considered for all purposes as the original enrollment of this Act and as valid evidence of the enactment of this Act.

(d) ARCHIVES.—A printed enrollment certified by the President under subsection (c) shall be transmitted to the Archivist of the United States, who shall preserve it with the hand enrollment. In preparing this Act for publication in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall use the printed enrollment certified by the President under subsection (c) in lieu of the hand enrollment.

(e) HAND ENROLLMENT DEFINED.—As used in this section, the term "hand enrollment" means enrollment in a form other than the printed form required by sections 106 and 107 of title 1, United States Code, as authorized by the joint resolution entitled "Joint resolution authorizing the hand enrollment of the budget reconciliation bill and of the full-year continuing resolution for fiscal year 1988", approved December 1987 (H.J. Res. 426 of the 100th Congress).

SEC. 8005. ASSET SALES.

In the fiscal year 1989 budget process, Congress commits to pass legislation sufficient to achieve the budget summit agreement of $3,500,000,000 of asset sales in fiscal year 1989.

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[83] Copy read "family independence program.".
[84] Copy read "state.".
[85] Copy read "commission on children.".

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Subtitle A—OASDI Provisions

PART 1—COVERAGE AND BENEFITS

SEC. 9001. COVERAGE OF INACTIVE DUTY MILITARY TRAINING.

(a) SOCIAL SECURITY ACT AMENDMENTS.—(1) Paragraph (1) of section 210(l) of the Social Security Act is amended to read as follows: 42 USC 410.

"(l)(1) Except as provided in paragraph (4), the term 'employment' shall, notwithstanding the provisions of subsection (a) of this section, include—

"(A) service performed after December 1956 by an individual as a member of a uniformed service on active duty, but such term shall not include any such service which is performed while on leave without pay, and

"(B) service performed after December 1987 by an individual as a member of a uniformed service on inactive duty training.".

(2) The second indented paragraph following subsection (s) in section 209 of such Act (relating to service in the uniformed services) is amended by striking "only his basic pay" and all that follows and inserting "only (1) his basic pay as described in chapter 3 and section 1009 of title 37, United States Code, in the case of an individual performing service to which subparagraph (A) of such section 210(l)(1) applies, or (2) his compensation for such service as determined under section 206(a) of title 37, United States Code, in the case of an individual performing service to which subparagraph (B) of such section 210(l)(1) applies." 42 USC 409.

(b) FICA AMENDMENTS.—(1) Paragraph (1) of section 3121(m) of the Internal Revenue Code of 1986 (relating to inclusion of service in the uniformed services) is amended to read as follows: 26 USC 3121.

"(1) INCLUSION OF SERVICE.—The term 'employment' shall, notwithstanding the provisions of subsection (b) of this section, include—

"(A) service performed by an individual as a member of a uniformed service on active duty, but such term shall not include any such service which is performed while on leave without pay, and

"(B) service performed by an individual as a member of a uniformed service on inactive duty training.".

[86] Copy read "service".

(2) Paragraph (2) of section 3121(i) of such Code (relating to computation of wages for individuals performing service in the uniformed services) is amended by striking "only his basic pay" and all that follows and inserting "only (A) his basic pay as described in chapter 3 and section 1009 of title 37, United States Code, in the case of an individual performing service to which subparagraph (A) of such subsection (m)(1) applies, or (B) his compensation for such service as determined under section 206(a) of title 37, United States Code, in the case of an individual performing service to which subparagraph (B) of such subsection (m)(1) applies.".

42 USC 429.

(c) CONFORMING AMENDMENT.—Section 229(a) of the Social Security Act is amended by striking "section 210(l)" and inserting "210(l)(1)(A)".

26 USC 3121 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987.

101 STAT. 1330-287

SEC. 9002. COVERAGE OF ALL CASH PAY OF AGRICULTURAL EMPLOYEES WHOSE EMPLOYERS SPEND $2,500 OR MORE A YEAR FOR AGRICULTURAL LABOR.

42 USC 409.

(a) SOCIAL SECURITY ACT AMENDMENT.—Paragraph (2) of section 209(h) of the Social Security Act is amended by striking clause (B) and inserting "(B) the employer's expenditures for agricultural labor in such year equal or exceed $2,500;".

26 USC 3121.

(b) FICA AMENDMENT.—Subparagraph (B) of section 3121(a)(8) of the Internal Revenue Code of 1986 (relating to wages) is amended by striking clause (ii) and inserting "(ii) the employer's expenditures for agricultural labor in such year equal or exceed $2,500;".

26 USC 3121 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration for agricultural labor paid after December 31, 1987.

SEC. 9003. COVERAGE OF THE EMPLOYER COST OF GROUP-TERM LIFE INSURANCE.

(a) COVERAGE UNDER OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM.—

42 USC 409.

(1) SOCIAL SECURITY ACT AMENDMENT.—Clause (3) of section 209(b) of the Social Security Act is amended by striking "death" and inserting "death, except that this subsection does not apply to a payment for group-term life insurance to the extent that such payment is includible in the gross income of the employee under the Internal Revenue Code of 1986".

26 USC 3121.

(2) FICA AMENDMENT.—Subparagraph (C) of section 3121(a)(2) of the Internal Revenue Code of 1986 (relating to wages) is amended by striking "death" and inserting "death, except that this paragraph does not apply to a payment for group-term life insurance to the extent that such payment is includible in the gross income of the employee".

26 USC 3121 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to group-term life insurance coverage in effect after December 31, 1987.

SEC. 9004. COVERAGE OF SERVICES PERFORMED BY ONE SPOUSE IN THE EMPLOY OF THE OTHER.

(a) SOCIAL SECURITY ACT AMENDMENTS.—

42 USC 410.

(1) IN GENERAL.—Subparagraph (A) of section 210(a)(3) of the Social Security Act is amended by striking "performed by an individual in the employ of his spouse, and service".

(2) EXCEPTION FOR CERTAIN DOMESTIC SERVICE IN THE PRIVATE HOME OF A SPOUSE.—Paragraph (3) of section 210(a) of such Act is amended by striking so much of subparagraph (B) as precedes clause (i) and inserting the following:

"(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his spouse or son or

daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service performed by an individual in the employ of his son or daughter if—".

(b) FICA AMENDMENTS.—

(1) IN GENERAL.—Subparagraph (A) of section 3121(b)(3) of the Internal Revenue Code of 1986 (relating to employment) is amended by striking "performed by an individual in the employ of his spouse, and service". 26 USC 3121.

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(2) EXCEPTION FOR CERTAIN DOMESTIC SERVICE IN THE PRIVATE HOME OF A SPOUSE.—Paragraph (3) of section 3121(b) of such Code (relating to employment) is amended by striking so much of subparagraph (B) as precedes clause (i) and inserting the following: 26 USC 3121.

"(B) service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his spouse or son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service performed by an individual in the employ of his son or daughter if—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987. 26 USC 3121 note.

SEC. 9005. TREATMENT OF SERVICE PERFORMED BY AN INDIVIDUAL IN THE EMPLOY OF A PARENT.

(a) SOCIAL SECURITY ACT AMENDMENTS.— 42 USC 410.

(1) AGE BELOW WHICH SERVICE FOR PARENT IS EXCLUDED FROM COVERED EMPLOYMENT REDUCED TO AGE 18.—Subparagraph (A) of section 210(a)(3) of the Social Security Act (as amended by section 9004(a)(1) of this Act) is further amended by striking "twenty-one" and inserting "18".

(2) EXCEPTION FOR CERTAIN DOMESTIC SERVICE IN THE PRIVATE HOME OF PARENT.—Subparagraph (B) of section 210(a)(3) of such Act (as amended by section 9004(a)(2) of this Act) is further amended by inserting "under the age of 21 in the employ of his father or mother, or performed by an individual" after "individual" the first place it appears.

(b) FICA AMENDMENTS.—

(1) AGE BELOW WHICH SERVICE FOR PARENT IS EXCLUDED FROM COVERED EMPLOYMENT REDUCED TO AGE 18.—Subparagraph (A) of section 3121(b)(3) of the Internal Revenue Code of 1986 (as amended by section 9004(b)(1) of this Act) is further amended by striking "21" and inserting "18".

(2) EXCEPTION FOR CERTAIN DOMESTIC SERVICE IN THE PRIVATE HOME OF PARENT.—Subparagraph (B) of section 3121(b)(3) of such Code (as amended by section 9004(b)(2) of this Act) is further amended by inserting "under the age of 21 in the employ of his father or mother, or performed by an individual" after "individual" the first place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987. 26 USC 3121 note.

SEC. 9006. APPLICATION OF EMPLOYER TAXES TO EMPLOYEES' CASH TIPS.

(a) APPLICATION OF TAX TO TIPS.—Section 3121(q) of the Internal Revenue Code of 1986 (relating to inclusion of tips for employee taxes) is amended— 26 USC 3121.

(1) by striking "EMPLOYEE TAXES" in the heading and inserting "BOTH EMPLOYEE AND EMPLOYER TAXES";

(2) by striking "other than for purposes of the taxes imposed by section 3111";

(3) by striking "remuneration for employment" and inserting "remuneration for such employment (and deemed to have been paid by the employer for purposes of subsections (a) and (b) of section 3111)"; and

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(4) by inserting after "at the time received" the following: "; except that, in determining the employer's liability in connection with the taxes imposed by section 3111 with respect to such tips in any case where no statement including such tips was so furnished (or to the extent that the statement so furnished was inaccurate or incomplete), such remuneration shall be deemed for purposes of subtitle F to be paid on the date on which notice and demand for such taxes is made to the employer by the Secretary".

(b) CONFORMING AMENDMENTS.—(1) Subsections (a) and (b) of section 3111(a) of such Code (relating to rate of tax on employers) are each amended by striking "and (t)".

26 USC 3111.

(2) Section 3121(t) of such Code (relating to special rule) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to tips received (and wages paid) on and after January 1, 1988.

26 USC 3111 note.

SEC. 9007. APPLICABILITY OF GOVERNMENT PENSION OFFSET TO CERTAIN FEDERAL EMPLOYEES.

(a) WIFE'S INSURANCE BENEFITS.—Paragraph (4) of section 202(b) of the Social Security Act is amended—

42 USC 402.

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a wife's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the wife (or divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day she was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the wife (or divorced wife) is

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eligible for benefits under this subsection and has made a valid application for such benefits.".

(b) HUSBAND'S INSURANCE BENEFITS.—Paragraph (2) of section 202(c) of such Act is amended—

42 USC 402.

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a husband's insurance benefit for each month (as determined after application of the provisions of subsections (q)

and (k)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the husband (or divorced husband) for such month which is based upon his earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day he was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the husband (or divorced husband) is eligible for benefits under this subsection and has made a valid application for such benefits.".

(c) WIDOW'S INSURANCE BENEFITS.—Paragraph (7) of section 202(e) of such Act is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a widow's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k), paragraph (2)(D), and paragraph (3)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the widow (or surviving divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day she was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

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"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was

performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the widow (or surviving divorced wife) is eligible for benefits under this subsection and has made a valid application for such benefits.".

42 USC 402.

(d) WIDOWER'S INSURANCE BENEFITS.—Paragraph (2) of section 202(f) of such Act is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a widower's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k), paragraph (3)(D), and paragraph (4)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the widower (or surviving divorced husband) for such month which is based upon his earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day he was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the widower (or surviving divorced husband) is eligible for benefits under this subsection and has made a valid application for such benefits.".

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42 USC 202.

(e) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Paragraph (4) of section 202(g) of such Act is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a mother's or father's insurance benefit for each month (as determined after application of the provisions of subsection (k)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the individual for such month which is based upon the individual's earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day the individual was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such

clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the individual is eligible for benefits under this subsection and has made a valid application for such benefits.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to benefits for months after December 1987; except that nothing in such amendments shall affect any exemption (from the application of the pension offset provisions contained in subsection (b)(4), (c)(2), (e)(7), (f)(2), or (g)(4) of section 202 of the Social Security Act) which any individual may have by reason of subsection (g) or (h) of section 334 of the Social Security Amendments of 1977. 42 USC 402 note.

SEC. 9008. MODIFICATION OF AGREEMENT WITH IOWA TO PROVIDE COVERAGE FOR CERTAIN POLICEMEN AND FIREMEN. 42 USC 418 note.

(a) IN GENERAL.—Notwithstanding subsection (d)(5)(A) of section 218 of the Social Security Act and the references thereto in subsections (d)(1) and (d)(3) of such section 218, the agreement with the State of Iowa heretofore entered into pursuant to such section 218 may, at any time prior to January 1, 1989, be modified pursuant to subsection (c)(4) of such section 218 so as to apply to services performed in policemen's or firemen's positions required to be covered by a retirement system pursuant to section 410.1 of the Iowa Code as in effect on July 1, 1953, if the State of Iowa has at any time prior to the date of the enactment of this Act paid to the Secretary of the Treasury, with respect to any of the services performed in such positions, the sums prescribed pursuant to subsection (e)(1) of such section 218 (as in effect on December 31, 1986, with respect to payments due with respect to wages paid on or before such date). 101 STAT. 1330–293

(b) SERVICE TO BE COVERED.—Notwithstanding the provisions of subsection (e) of section 218 of the Social Security Act (as so redesignated by section 9002(c)(1) of the Omnibus Budget Reconciliation Act of 1986)), any modification in the agreement with the State of Iowa under subsection (a) shall be made effective with respect to—

(1) all services performed in any policemen's or firemen's position to which the modification relates on or after January 1, 1987, and

(2) all services performed in such a position before January 1, 1987, with respect to which the State of Iowa has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 (as in effect on December 31, 1986, with respect to payments due with respect to wages paid on or before such date) at the time or times established pursuant to such subsection (e)(1), if and to the extent that—

(A) no refund of the sums so paid has been obtained, or

(B) a refund of part or all of the sums so paid has been obtained but the State of Iowa repays to the Secretary of the Treasury the amount of such refund within 90 days after the date on which the modification is agreed to by the State and the Secretary of Health and Human Services.

SEC. 9009. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

42 USC 423. Subsection (g) of section 223 of the Social Security Act is amended—

(1) in paragraph (1)(iii), by striking "June 1988" and inserting "June 1989"; and

(2) in paragraph (3)(B), by striking "January 1, 1988" and inserting "January 1, 1989".

SEC. 9010. EXTENSION OF DISABILITY RE-ENTITLEMENT PERIOD FROM 15 MONTHS TO 36 MONTHS.

(a) DISABILITY INSURANCE BENEFITS.—Paragraph (1) of section 223(a) of the Social Security Act is amended by striking "15 months" and inserting "36 months".

(b) CHILD'S INSURANCE BENEFITS BASED ON DISABILITY.—Clause (i) 42 USC 402. of section 202(d)(1)(G) of such Act is amended by striking "15 months" and inserting "36 months".

(c) WIDOW'S INSURANCE BENEFITS BASED ON DISABILITY.—Paragraph (1) of section 202(e) of such Act is amended, in subclause (II) of the last sentence, by striking "15 months" and inserting "36 months".

(d) WIDOWER'S INSURANCE BENEFITS BASED ON DISABILITY.—Para- 101 STAT. 1330-294 graph (1) of section 202(f) of such Act is amended, in subclause (II) of the last sentence, by striking "15 months" and inserting "36 months".

(e) CONFORMING AMENDMENTS.—

(1) TERMINATION OF PERIOD OF DISABILITY.—Subparagraph (D) 42 USC 416. of section 216(i)(2) of such Act is amended by striking "15-month" and inserting "36-month".

(2) TERMINATION OF BENEFITS DURING RE-ENTITLEMENT 42 USC 423. PERIOD.—Subsection (e) of section 223 of such Act is amended by striking "15-month" and inserting "36-month".

(3) SPECIAL RULE FOR [87] DETERMINATION OF CONTINUED MEDICARE ELIGIBILITY BASED ON ENTITLEMENT TO DISABILITY BENE- 42 USC 426. FITS.—Section 226(b) of such Act is amended by adding at the end the following new sentence: "In determining when an individual's entitlement or status terminates for purposes of the preceding sentence, the second sentence of section 223(a) shall be applied as though the term '36 months' (in such second sentence) read '15 months'.".

42 USC 402 note. (f) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1988, and shall apply with respect to—

(1) individuals who are entitled to benefits which are payable under subsection (d)(1)(B)(ii), (d)(6)(A)(ii), (d)(6)(B), (e)(1)(B)(ii), or (f)(1)(B)(ii) of section 202 of the Social Security Act or subsection (a)(1) of section 223 of such Act for any month after December 1987, and

(2) individuals who are entitled to benefits which are payable under any provision referred to in paragraph (1) for any month before January 1988 and with respect to whom the 15-month period described in the applicable provision amended by this section has not elapsed as of January 1, 1988.

PART 2—OTHER SOCIAL SECURITY PROVISIONS

SEC. 9021. MORATORIUM ON REDUCTIONS IN ATTORNEYS' FEES; STUDIES OF ATTORNEYS' FEE PAYMENT SYSTEM.

(a) MORATORIUM.—(1) The provisions of the memorandum of the Associate Commissioner of Social Security dated March 31, 1987 (relating to revised delegations of authority for administrative law judges to determine fees of representatives) which amend sections 1-220 through 1-226 of the Office of Hearings and Appeals Staff

[87] Copy read "FOR".

Guides and Programs Digest (commonly referred to as the OHA Handbook), and Interim Circular No. 122 (relating to the determination authority regarding fees for representation of claimants), are hereby declared to be null and void. The preceding sentence shall apply with respect to all attorneys' fees finally authorized in connection with claims for benefits under title II of the Social Security Act on and after the date of the enactment of this Act, regardless of when the legal services involved were performed; and no reconsideration of any such fee finally authorized prior to that date shall be required.

(2) Until July 1, 1989, neither the Secretary nor the Social Security Administration may modify any of the rules and regulations relating to attorneys' fees in connection with claims for benefits under title II of the Social Security Act.

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(b) STUDIES.—(1) The Secretary of Health and Human Services shall conduct a study of the attorneys' fee payment process under title II of the Social Security Act. Such study shall—

(A) assess the levels of reimbursement to attorneys, giving consideration to the contingent nature of most arrangements between claimants and their legal representatives, and propose alternative methods for establishing fees which take the nature of these arrangements into account, and

(B) suggest changes aimed at eliminating unnecessary delays in the approval and payment of attorneys' fees and thereby streamlining the payment process.

In conducting this study, the Secretary shall consult with individuals who represent the views of attorneys and with others who represent the views of claimants.

(2) At the same time, the Comptroller General shall conduct a study of the fee approval system, including at a minimum—

(A) a study of the impact of the current system on claimants and attorneys,

(B) an identification of obstacles to the timely payment of attorneys' fees under present law, and

(C) an assessment of the effect, if any, which the reduced limit on attorneys' fees in effect immediately prior to the enactment of this Act has had on access to legal representation by applicants for disability insurance benefits.

(3) The studies required by paragraphs (1) and (2), along with any recommendations resulting therefrom, shall be submitted to the Congress no later than July 1, 1988.

SEC. 9022. CORPORATE DIRECTORS.

(a) SOCIAL SECURITY ACT AMENDMENT.—Section 211(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

42 USC 411.

"Any income of an individual which results from or is attributable to the performance of services by such individual as a director of a corporation during any taxable year shall be deemed to have been derived (and received) by such individual in that year, at the time the services were performed, regardless of when the income is actually paid to or received by such individual (unless it was actually paid and received prior to that year).".

(b) SECA AMENDMENT.—Section 1402(a) of the Internal Revenue Code of 1986 (relating to definition of net earnings from self-employment) is amended by adding at the end thereof the following new paragraph:

26 USC 1402.

"Any income of an individual which results from or is attributable to the performance of services by such individual as a director of a corporation during any taxable year shall be deemed to have been derived (and received) by such individual in that year, at the time the services were performed, regardless of when the income is actually paid to or received by such individual (unless it was actually paid and received prior to that year).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services performed in taxable years beginning on or after January 1, 1988.

SEC. 9023. TECHNICAL CORRECTIONS.

42 USC 410. (a) The heading of section 210(p) of the Social Security Act is amended to read as follows:

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"Medicare Qualified Government Employment".

42 USC 411. (b)(1) Section 211(a)(7) of such Act is amended—

(A) by inserting "and" before "section 911"; and

(B) by striking "and section 931 (relating to income from sources within possessions of the United States) of the Internal Revenue Code of 1954".

(2) Section 211(a)(8) of such Act is amended to read as follows:

"(8) The exclusion from gross income provided by section 931 of the Internal Revenue Code of 1986 shall not apply;".

42 USC 418. (c) Section 218(v) of such Act is amended—

(1) by striking "(v)" and inserting "(n)";

(2) by striking paragraph (3); and

(3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

26 USC 3121. (d) Section 3121(a)(5) of the Internal Revenue Code of 1986 is amended—

(1) by striking "; or" at the end of subparagraph (F) and inserting ", or"; and

(2) by striking the comma at the end of subparagraph (G) and inserting a semicolon.

PART 3—RAILROAD RETIREMENT PROGRAM

SEC. 9031. INCREASE IN RATES OF TIER 2 RAILROAD RETIREMENT TAX ON EMPLOYEES FOR 1988 AND THEREAFTER.

(a) IN GENERAL.—Subsection (b) of section 3201 of the Internal Revenue Code of 1986 (relating to tier 2 employee tax) is amended to read as follows:

"(b) TIER 2 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to 4.90 percent of the compensation received during any calendar year by such employee for services rendered by such employee.".

26 USC 3201 note. (b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to compensation received after December 31, 1987.

SEC. 9032. INCREASE IN RATES OF TIER 2 RAILROAD RETIREMENT TAX ON EMPLOYERS FOR 1988 AND THEREAFTER.

(a) IN GENERAL.—Subsection (b) of section 3221 of the Internal Revenue Code of 1986 (relating to tier 2 employer tax) is amended to read as follows:

"(b) TIER 2 TAX.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 16.10 percent of the compensation paid during any calendar year by such employer for services rendered to such employer.".

26 USC 3221 note. (b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to compensation paid after December 31, 1987.

45 USC 231n note. SEC. 9033. COMMISSION ON RAILROAD RETIREMENT REFORM.

(a) COMMISSION ON RAILROAD RETIREMENT REFORM.—There is established a commission to be known as the Commission on Railroad Retirement Reform (in this section referred to as the "Commission").

(b) STUDY.—The Commission shall conduct a comprehensive study of the issues pertaining to the long-term financing of the railroad

retirement system (in this section referred to as the "system") and the system's short-term and long-term solvency. The Commission shall submit a report containing a detailed statement of its findings and conclusions together with recommendations to the Congress for revisions in, or alternatives to, the current system to assure the provision of retirement benefits to former, present, and future railroad employees on an actuarially sound basis. The study will take into account— 101 STAT. 1330-297

Reports.

(1) the possibility of restructuring the financing of railroad retirement benefits through increases in the tier 2 tax rate, increases in the tier 2 tax wage base, the imposition of a tax on operating revenues, revisions in the investment policy of the railroad retirement pension fund, and establishing a privately funded and administered railroad industry pension plan;

(2) the economic outlook for the railroad industry, and the nature of the relationships between the railroad retirement system, levels of railroad employment and compensation, and the performance of the rail sector;

(3) the ability of the system under current law to pay benefits to current and future retirees and other beneficiaries;

(4) the financial relationship of the system to the railroad unemployment insurance system, the social security system, and the General Fund; and

(5) any other matters which the Commission considers would be necessary, appropriate, or useful to the Congress in developing legislation to reform the system.

(c) MEMBERSHIP OF THE COMMISSION.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of seven members, as follows:

(A) four individuals appointed by the President— President of U.S.

(i) one of whom shall be appointed on the basis of recommendations made by representatives of employers (as defined in section 1(a) of the Railroad Retirement Act of 1974) so as to provide representation on the Commission satisfactory to the largest number of employers concerned,

(ii) one of whom shall be appointed on the basis of recommendations made by representatives of employees (as defined in section 1(b) of the Railroad Retirement Act of 1974) so as to provide representation on the Commission satisfactory to the largest number of employees concerned,

(iii) one of whom shall be appointed on the basis of recommendations made by representatives of commuter railroads, and

(iv) one of whom shall be appointed from members of the public;

(B) one individual appointed by the Speaker of the House of Representatives from among members of the public;

(C) one individual appointed by the President pro tempore of the Senate from among members of the public; and

(D) one individual appointed by the Comptroller General from among members of the public with expertise in the fields of retirement systems and pension plans.

All public members of the Commission shall be appointed from among individuals who are not in the employment of and are not pecuniarily or otherwise interested in any employer (as so defined) or organization of employees (as so defined). In making appointments under this section, the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall ensure that the members of the Commission, collectively, possess special knowledge of retirement income policy, social insurance, private pensions, taxation, and the structure of the transportation industry. A vacancy in the Commission shall be filled in the manner in which the original appointment was made. 101 STAT. 1330-298

President of U.S.

(2) PAY.—Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

(3) QUORUM.—Five members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(4) CHAIRMAN.—The members of the Commission shall elect a Chairman [87a] from among the membership.

(d) STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.—

(1) STAFF.—Subject to such rules as may be prescribed by the Commission, the Chairman may appoint and fix the pay of such personnel as the Chairman considers appropriate.

(2) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(3) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(4) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the Railroad Retirement Board and any other Federal agency may detail, on a reimbursable basis, any of the personnel thereof to the Commission to assist the Commission in carrying out its duties under this section.

(e) ACCESS TO OFFICIAL DATA AND SERVICES.—

(1) OFFICIAL DATA.—The Commission may, as appropriate, secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman of the Commission, the head of such department or agency shall, as appropriate, furnish such information to the Commission.

(2) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(3) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) REPORT.—The Commission shall transmit a report to the President and to each House of the Congress not later than October 1, 1989. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its legislative recommendations.

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(g) TERMINATION.—The Commission shall cease to exist 60 days after submitting its report pursuant to subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated the sum of $1,000,000 for purposes of this section, to remain available until expended but in no event beyond the date of termination provided in subsection (g).

SEC. 9034. TRANSFER TO RAILROAD RETIREMENT ACCOUNT.

45 USC 231n note.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended—

(1) by inserting "(other than amounts described in subparagraph (B))" after "amounts";

[87a] Copy read "chairman".

(2) by striking "1988" and inserting "1989"; and
(3) by striking the last sentence.

Subtitle B—Provisions Relating to Public Assistance and Unemployment Compensation

PART 1—AFDC AND SSI AMENDMENTS

SEC. 9101. PERMANENT EXTENSION OF DISREGARD OF NONPROFIT ORGANIZATIONS' IN-KIND ASSISTANCE TO SSI AND AFDC RECIPIENTS.

Effective as of October 1, 1987, section 2639(d) of the Deficit Reduction Act of 1984 is amended by striking "; but" and all that follows and inserting a period.

Effective date.
42 USC 602 note.

SEC. 9102. FRAUD CONTROL UNDER AFDC PROGRAM.

(a) IN GENERAL.—Part A of title IV of the Social Security Act is amended by adding at the end the following new section:

"FRAUD CONTROL

"SEC. 416. (a) Any State, in the administration of its State plan approved under section 402, may elect to establish and operate a fraud control program in accordance with this section.

42 USC 616.

"(b) Under any such program, if an individual who is a member of a family applying for or receiving aid under the State plan approved under section 402 is found by a Federal or State court or pursuant to an administrative hearing meeting requirements determined in regulations of the Secretary, on the basis of a plea of guilty or nolo contendere or otherwise, to have intentionally—

"(1) made a false or misleading statement or misrepresented, concealed, or withheld facts, or

"(2) committed any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity,

for the purpose of establishing or maintaining the family's eligibility for aid under such State plan or of increasing (or preventing a reduction in) the amount of such aid, then the needs of such individual shall not be taken into account in making the determination under section 402(a)(7) with respect to his or her family (A) for a period of 6 months upon the first occasion of any such offense, (B) for a period of 12 months upon the second occasion of any such offense, and (C) permanently upon the third or a subsequent occasion of any such offense.

101 STAT. 1330-300

"(c) The State agency involved shall proceed against any individual alleged to have committed an offense described in subsection (b) either by way of administrative hearing or by referring the matter to the appropriate authorities for civil or criminal action in a court of law. The State agency shall coordinate its actions under this section with any corresponding actions being taken under the food stamp program in any case where the factual issues involved arise from the same or related circumstances.

"(d) Any period for which sanctions are imposed under subsection (b) shall remain in effect, without possibility of administrative stay, unless and until the finding upon which the sanctions were imposed is subsequently reversed by a court of appropriate jurisdiction; but in no event shall the duration of the period for which such sanctions are imposed be subject to review.

"(e) The sanctions provided under subsection (b) shall be in addition to, and not in substitution for, any other sanctions which may be provided for by law with respect to the offenses involved.

"(f) Each State which has elected to establish and operate a fraud control program under this section must provide all applicants for aid to families with dependent children under its approved State plan, at the time of their application for such aid, with a written

notice of the penalties for fraud which are provided for under this section.".

42 USC 602. (b) STATE PLAN REQUIREMENT.—Section 402(a) of such Act is amended—

(1) by striking "and" after the semicolon at the end of paragraph (38);

(2) by striking the period at the end of paragraph (39) and inserting "; and"; and

(3) by inserting immediately after paragraph (39) the following new paragraph:

"(40) provide, if the State has elected to establish and operate a fraud control program under section 416, that the State will submit to the Secretary (with such revisions as may from time to time be necessary) a description of and budget for such program, and will operate such program in full compliance with that section.".

42 USC 603. (c) FEDERAL MATCHING.—Section 403(a)(3) of such Act is amended—

(1) by striking "and" after the final comma in subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D);

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) 75 percent of so much of such expenditures as are for the costs of carrying out a fraud control program under section 416, including costs related to the investigation, prosecution, and administrative hearing of fraudulent cases and the making of any resultant collections, and"; and

(4) by striking "(C)" in the matter following subparagraph (D) (as redesignated by paragraph (2) of this subsection) and inserting "(D)".

101 STAT. 1330-301

42 USC 602 note. [88] (d) EFFECTIVE DATE.—The amendments made by this section shall become effective April 1, 1988.

SEC. 9103. EXCLUSION OF REAL PROPERTY WHEN IT CANNOT BE SOLD.

42 USC 1382b. (a) IN GENERAL.—Section 1613(b) of the Social Security Act is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1), the Secretary shall not require the disposition of any real property for so long as it cannot be sold because (A) it is jointly owned (and its sale would cause undue hardship, due to loss of housing, for the other owner or owners), (B) its sale is barred by a legal impediment, or (C) as determined under regulations issued by the Secretary, the owner's reasonable efforts to sell it have been unsuccessful.".

42 USC 1382b note. (b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective April 1, 1988.

SEC. 9104. ADJUSTMENT OF PENALTY WHERE ASSET IS TRANSFERRED FOR LESS THAN FAIR MARKET VALUE.

[89] (a) IN GENERAL.—Section 1613(c) of the Social Security Act is amended—

(1) by inserting immediately after "the exclusions under subsection (a)" in paragraph (1) the following: ", and subject to paragraph (4) of this subsection"; and

(2) by adding at the end the following new paragraph:

Regulations. "(4) The Secretary shall by regulation provide for suspending the application of paragraph (1) to the extent (in any instance) that the Secretary determines that such suspension is necessary to avoid undue hardship.".

42 USC 1382b note. (b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective April 1, 1988.

[88] Copy read "EFFECTIVE DATE.—".
[89] Copy read "IN GENERAL.—".

SEC. 9105. EXCLUSION OF INTEREST ON BURIAL ACCOUNTS.

(a) IN GENERAL.—Section 1613(d) of the Social Security Act is amended—

(1) in paragraph (1), by striking "if the inclusion" and all that follows and inserting a period; and

(2) in paragraph (3), by striking "aside" and inserting "aside in cases where the inclusion of any portion of the amount would cause the resources of such individual, or of such individual and spouse, to exceed the limits specified in paragraph (1) or (2) (whichever may be applicable) of section 1611(a)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective April 1, 1988. 42 USC 1382b note.

SEC. 9106. EXCEPTION FROM SSI RETROSPECTIVE ACCOUNTING FOR AFDC AND CERTAIN OTHER ASSISTANCE PAYMENTS.

(a) IN GENERAL.—Section 1611(c) of the Social Security Act is amended— 42 USC 1382.

(1) by striking "paragraphs (2), (3), and (4)" in paragraph (1) and inserting "paragraphs (2), (3), (4), and (5)";

(2) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

101 STAT. 1330-302

(3) by inserting after paragraph (4) the following new paragraph:

"(5) Notwithstanding paragraphs (1) and (2), any income which is paid to or on behalf of an individual in any month pursuant to (A) a State plan approved under part A of title IV of this Act (relating to aid to families with dependent children), (B) section 472 of this Act (relating to foster care assistance), (C) section 412(e) of the Immigration and Nationality Act (relating to assistance for refugees), (D) section 501(a) of Public Law 96-422 (relating to assistance for Cuban and Haitian entrants), or (E) the Act of November 2, 1921 (42 Stat. 208), as amended (relating to assistance furnished by the Bureau of Indian Affairs), shall be taken into account in determining the amount of the benefit under this title of such individual (and his eligible spouse, if any) only for that month, and shall not be taken into account in determining the amount of the benefit for any other month.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective April 1, 1988. 42 USC 1382 note.

SEC. 9107. TECHNICAL AMENDMENT RELATING TO 1986 AMENDMENT CONCERNING THE TREATMENT OF CERTAIN COUPLES IN MEDICAL INSTITUTIONS.

Effective November 10, 1986, section 1611(e)(5) of the Social Security Act is amended— Effective date. 42 USC 1382.

(1) by striking "sharing a room or comparable accommodation in a hospital, home, or facility" and inserting "living in the same hospital, home, or facility"; and

(2) by striking "shared such a room or accommodation" and inserting "lived in the same such hospital, home, or facility".

SEC. 9108. EXTENSION OF DEADLINE FOR DISABLED WIDOWS TO APPLY FOR MEDICAID PROTECTION UNDER 1984 AMENDMENTS.

Effective July 1, 1987, section 1634(b)(3) of the Social Security Act is amended by striking "during the 15-month period beginning with the month in which this subsection is enacted" and inserting "no later than July 1, 1988". Effective date. 42 USC 1383c.

SEC. 9109. INCREASE IN SSI EMERGENCY ADVANCE PAYMENTS.

(a) IN GENERAL.—Section 1631(a)(4)(A) of the Social Security Act is amended by striking "a cash advance against such benefits in an amount not exceeding $100" and inserting "a cash advance against such benefits, including any federally-administered State supplementary payments, in an amount not exceeding the monthly amount that would be payable to an eligible individual with no other income for the first month of such presumptive eligibility". 42 USC 1383.

42 USC 1383 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

SEC. 9110. MODIFICATION OF INTERIM ASSISTANCE REIMBURSEMENT PROGRAM.

(a) IN GENERAL.—The first sentence of section 1631(g)(2) of the Social Security Act is amended by striking "at the time the Secretary makes the first payment of benefits" and inserting "at the time the Secretary makes the first payment of benefits with respect to the period described in clause (A) or (B) of paragraph (3)".

(b) DEFINITION OF INTERIM ASSISTANCE.—Section 1631(g)(3) of such Act is amended— 101 STAT. 1330-303

(1) by inserting "(A)" after "basic needs"; and

(2) by inserting before the period at the end the following: ", or (B) during the period beginning with the first month for which the individual's benefits (as defined in paragraph (2)) have been terminated or suspended if the individual was subsequently found to have been eligible for such benefits".

42 USC 1383 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective with the 13th month following the month in which this Act is enacted, or, if sooner, with the first month for which the Secretary of Health and Human Services determines that it is administratively feasible.

SEC. 9111. SPECIAL NOTICE TO BLIND RECIPIENTS.

42 USC 1383.

(a) IN GENERAL.—(1) Section 1631 of the Social Security Act is amended by adding at the end the following new subsection:

"Special Notice to Blind Individuals with Respect to Hearings and Other Official Actions

"(l)(1) In any case where an individual who is applying for or receiving benefits under this title on the basis of blindness is entitled (under subsection (c) or otherwise) to receive notice from the Secretary of any decision or determination made or other action taken or proposed to be taken with respect to his or her rights under this title, such individual shall at his or her election be entitled either (A) to receive a supplementary notice of such decision, determination, or action, by telephone, within 5 working days after the initial notice is mailed, (B) to receive the initial notice in the form of a certified letter, or (C) to receive notification by some alternative procedure established by the Secretary and agreed to by the individual.

"(2) The election under paragraph (1) may be made at any time; but an opportunity to make such an election shall in any event be given (A) to every individual who is an applicant for benefits under this title on the basis of blindness, at the time of his or her application, and (B) to every individual who is a recipient of such benefits on the basis of blindness, at the time of each redetermination of his or her eligibility. Such an election, once made by an individual, shall apply with respect to all notices of decisions, determinations, and actions which such individual may thereafter be entitled to receive under this title until such time as it is revoked or changed.".

42 USC 1383 note.

(2) Not later than one year after the date on which the amendment made by paragraph (1) becomes effective, the Secretary of Health and Human Services shall provide every individual receiving benefits under title XVI of the Social Security Act on the basis of blindness an opportunity to make an election under section 1631(l)(1) of such Act (as added by such amendment).

Reports. 42 USC 1383 note.

(b) STUDY.—The Secretary of Health and Human Services shall study the desirability and feasibility of extending special or supplementary notices of the type provided to blind individuals by section 1631(l) of the Social Security Act (as added by subsection (a) of this section) to other individuals who may lack the ability to read and

comprehend regular written notices, and shall report the results of such study to the Congress, along with such recommendations as may be appropriate, within 12 months after the date of the enactment of this Act.

101 STAT. 1330-304

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective July 1, 1988. 42 USC 1383 note.

SEC. 9112. REHABILITATION SERVICES FOR BLIND SSI RECIPIENTS.

(a) IN GENERAL.—Section 1631(a)(6) of the Social Security Act is amended— 42 USC 1383.

(1) by inserting "blindness (as determined under section 1614(a)(2)) or" before "disability (as determined under section 1614(a)(3))";

(2) by inserting "blindness or other" before "physical or mental impairment"; and

(3) by inserting "blindness and" before "disability benefit rolls" in subparagraph (B).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective April 1, 1988. 42 USC 1383 note.

SEC. 9113. EXTENDING THE NUMBER OF MONTHS THAT AN INDIVIDUAL IN A PUBLIC EMERGENCY SHELTER CAN BE ELIGIBLE FOR SSI.

(a) IN GENERAL.—Section 1611(e)(1)(D) of the Social Security Act is amended by striking "three months in any 12-month period" and inserting "6 months in any 9-month period". 42 USC 1382.

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall become effective January 1, 1988. 42 USC 1382 note.

(2) In the application of section 1611(e)(1)(D) of the Social Security Act on and after the effective date of such amendment, months before January 1988 in which a person was an eligible individual or eligible spouse by reason of such section shall not be taken into account.

SEC. 9114. EXCLUSION OF UNDERPAYMENTS FROM RESOURCES.

(a) IN GENERAL.—Section 1613(a)(7) of the Social Security Act is amended by inserting after "shall be limited to the first 6 months following the month in which such amount is received" the following: "(or to the first 9 months following such month with respect to any amount so received during the period beginning October 1, 1987, and ending September 30, 1989)". 42 USC 1382b.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective January 1, 1988. 42 USC 1382b note.

SEC. 9115. CONTINUATION OF FULL BENEFIT STANDARD FOR INDIVIDUALS TEMPORARILY INSTITUTIONALIZED.

(a) IN GENERAL.—Section 1611(e)(1) of the Social Security Act is amended—

(1) in subparagraph (A), by striking "and (E)" and inserting "(E), and (G)";

(2) in subparagraph (B), by inserting "(subject to subparagraph (G))" after "throughout any month"; and

(3) by adding at the end the following new subparagraphs:

"(G) A person may be an eligible individual or eligible spouse for purposes of this title, and subparagraphs (A) and (B) shall not apply, with respect to any particular month throughout which he or she is an inmate of a public institution the primary purpose of which is the provision of medical or psychiatric care, or which is a hospital, extended care facility, nursing home, or intermediate care facility receiving payments (with respect to such individual or spouse) under a State plan approved under title XIX, if it is determined in accordance with subparagraph (H) that—

101 STAT. 1330-305

"(i) such person's stay in that institution or facility (or in that institution or facility and one or more other such institutions or facilities during a continuous period of institutionalization) is

likely (as certified by a physician) not to exceed 3 months, and the particular month involved is one of the first 3 months throughout which such person is in such an institution or facility during a continuous period of institutionalization; and

"(ii) such person needs to continue to maintain and provide for the expenses of the home or living arrangement to which he or she may return upon leaving the institution or facility.

The benefit of any person under this title (including State supplementation if any) for each month to which this subparagraph applies shall be payable, without interruption of benefit payments and on the date the benefit involved is regularly due, at the rate that was applicable to such person in the month prior to the first month throughout which he or she is in the institution or facility.

Contracts.

"(H) The Secretary shall establish procedures for the determinations required by clauses (i) and (ii) of subparagraph (G), and may enter into agreements for making such determinations (or for providing information or assistance in connection with the making of such determinations) with appropriate State and local public and private agencies and organizations. Such procedures and agreements shall include the provision of appropriate assistance to individuals who, because of their physical or mental condition, are limited in their ability to furnish the information needed in connection with the making of such determinations.".

42 USC 1396a.

(b) CONFORMING AMENDMENT.—Section 1902(l) of such Act is amended by striking "section 1611(e)(1)(E)" and inserting "subparagraph (E) or (G) of section 1611(e)(1)".

42 USC 1382 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective July 1, 1988.

SEC. 9116. RETENTION OF MEDICAID WHEN SSI BENEFITS ARE LOST UPON ENTITLEMENT TO EARLY WIDOW'S OR WIDOWER'S INSURANCE BENEFITS.

42 USC 1383c.

(a) IN GENERAL.—Section 1634 of the Social Security Act is amended by adding at the end the following new subsection:

"(d) If any person—

"(1) applies for and obtains benefits under subsection (e) or (f) of section 202 (or under any other subsection of section 202 if such person is also eligible for benefits under such subsection (e) or (f)) as required by section 1611(e)(2), being then at least 60 years of age but not entitled to hospital insurance benefits under part A of title XVIII, and

"(2) is determined to be ineligible (by reason of the receipt of such benefits under section 202) for supplemental security income benefits under this title or for State supplementary payments of the type described in section 1616(a),

such person shall nevertheless be deemed to be a recipient of supplemental security income benefits under this title for purposes of title XIX, so long as he or she (A) would be eligible for such supplemental security income benefits, or such State supplementary payments, in the absence of such benefits under section 202, and (B) is not entitled to hospital insurance benefits under part A of title XVIII.".

101 STAT. 1330-306

42 USC 1383c note.

(b) NOTICE.—The Secretary of Health and Human Services, acting through the Social Security Administration, shall (within 3 months after the date of the enactment of this Act) issue a notice to all individuals who will have attained age 60 but not age 65 as of April 1, 1988, and who received supplemental security income benefits under title XVI of the Social Security Act prior to attaining age 60 but lost those benefits by reason of the receipt of widow's or widower's insurance benefits (or other benefits as described in section 1634(d)(1) of that Act as added by subsection (a) of this section) under title II of that Act. Each such notice shall set forth and explain the provisions of section 1634(d) of the Social Security Act (as so added), and shall inform the individual that he or she should contact the Secretary or the appropriate State agency concerning

his or her possible eligibility for medical assistance benefits under such title XIX.

(c) STATE DETERMINATIONS.—Any determination required under section 1634(d) of the Social Security Act with respect to whether an individual would be eligible for benefits under title XVI of such Act (or State supplementary payments) in the absence of benefits under section 202 shall be made by the appropriate State agency. 42 USC 1383c note.

(d) CONFORMING AMENDMENTS.—Section 1922(a)(2) of the Social Security Act is amended— 42 USC 1396s.

(1) by striking "1634 (b)" in subparagraph (B) and inserting "1634 (b) and (c)"; and

(2) by adding at the end the following new subparagraph:

"(C) Section 1634(d) of this Act (relating to individuals who lose eligibility for SSI benefits due to entitlement to early widow's or widower's insurance benefits under section 202 (e) or (f) of this Act).".

(e) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to any individual without regard to whether the determination of his or her ineligibility for supplemental security income benefits by reason of the receipt of benefits under section 202 of the Social Security Act [90] (as described in section 1634(d)(2) of such Act) occurred before, on, or after the date of the enactment of this Act; but no individual shall be eligible for assistance under title XIX of such Act by reason of such amendments for any period before July 1, 1988. 42 USC 1383c note.

SEC. 9117. DEMONSTRATION PROGRAM TO ASSIST HOMELESS INDIVIDUALS. 42 USC 1383 note.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") is authorized to make grants to States for projects designed to demonstrate and test the feasibility of special procedures and services to ensure that homeless individuals are provided SSI and other benefits under the Social Security Act to which they are entitled and receive assistance in using such benefits to obtain permanent housing, food, and health care. Each project approved under this section shall meet such conditions and requirements, consistent with this section, as the Secretary shall prescribe. Grants.

(b) SCOPE OF PROJECTS.—Projects for which grants are made under this section shall include, more specifically, procedures and services to overcome barriers which prevent homeless individuals (particularly the chronically mentally ill) from receiving and appropriately using benefits, including— Grants. 101 STAT. 1330-307

(1) the creation of cooperative approaches between the Social Security Administration, State and local governments, shelters for the homeless, and other providers of services to the homeless;

(2) the establishment, where appropriate, of multi-agency SSI Outreach Teams (as described in subsection (c)), to facilitate communication between the agencies and staff involved in taking and processing claims for SSI and other benefits by the homeless who use shelters;

(3) special efforts to identify homeless individuals who are potentially eligible for SSI or other benefits under the Social Security Act;

(4) the provision of special assistance to the homeless in applying for benefits, including assistance in obtaining and developing evidence of disability and supporting documentation for nondisability-related eligibility requirements;

(5) the provision of special training and assistance to public and private agency staff, including shelter employees, on disability eligibility procedures and evidentiary requirements;

[90] Copy read "Social Security (as".

(6) the provision of ongoing assistance to formerly homeless individuals to ensure their responding to information requests related to periodic redeterminations of eligibility for SSI and other benefits;

(7) the provision of assistance in ensuring appropriate use of benefit funds for the purpose of enabling homeless individuals to obtain permanent housing, nutrition, and physical and mental health care, including the use, where appropriate, of the disabled individual's representative payee for case management services; and

(8) such other procedures and services as the Secretary may approve.

(c) SSI OUTREACH TEAM PROJECTS.—(1) If a State applies for funds under this section for the purpose of establishing a multi-agency SSI Outreach Team, the membership and functions of such Team [91] shall be as follows (except as provided in paragraph (2)):

(A) The membership of the Team shall include a social services case worker (or case workers, if necessary); a consultative medical examiner who is qualified to provide consultative examinations for the Disability Determination Service of the State; a disability examiner, from the State Disability Determination Service; and a claims representative from an office of the Social Security Administration.

(B) The Team shall have designated members responsible for—

(i) identification of homeless individuals who are potentially eligible for SSI or other benefits under the Social Security Act;

(ii) ensuring that such individuals understand their rights under the programs;

(iii) assisting such individuals in applying for benefits, including assistance in obtaining and developing evidence and supporting documentation relating to disability- and nondisability-related eligibility requirements;

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(iv) arranging transportation and accompanying applicants to necessary examinations, if needed; and

(v) providing for the tracking and monitoring of all claims for benefits by individuals under the project.

(2) If the Secretary determines that an application by a State for an SSI Outreach Team Project under this section which proposes a membership and functions for such Team different from those prescribed in paragraph (1) but which is expected to be as effective, the Secretary may waive the requirements of such paragraph.

(d) INFORMATION AND REPORTS; EVALUATION.—(1) Each State having an approved SSI Outreach Team Project shall periodically submit to the Secretary such information (with respect to the project) as may be necessary to enable the Secretary to evaluate such project in particular and the demonstration program under this section in general.

(2)(A) The Secretary shall from time to time (but not less often than annually) submit to the Congress a full and complete report on the program under this section, together with a detailed evaluation of such program and of the projects thereunder along with such recommendations as may be deemed appropriate. Such evaluation and such recommendations shall be designed to serve as a basis for determining whether (and to what extent) the activities and procedures included in the demonstration program under this section should be continued, expanded, or modified, or converted (with or without changes) into a regular feature of permanent law.

(B) The criteria used by the Secretary in evaluating the program and the projects thereunder shall not be limited to those which would normally be used in evaluating programs and activities of the kind involved, but shall fully take into account the special cir-

[91] Copy read "team".

cumstances of the homeless and their need for personalized attention and follow-through assistance, and shall emphasize the extent to which the procedures and assistance made available to applicants under such projects are recognizing those circumstances and meeting that need.

(e) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Secretary—

(A) the sum of $1,250,000 for the fiscal year 1988;

(B) the sum of $2,500,000 for the fiscal year 1989; and

(C) such sums as may be necessary for each fiscal year thereafter.

SEC. 9118. ASSISTANCE TO HOMELESS AFDC FAMILIES.

Federal Register, publication.

The Secretary of Health and Human Services may not take any action, prior to October 1, 1988, that would have the effect of implementing in whole or in part the proposed regulation published in the Federal Register on December 14, 1987, with respect to emergency assistance and the need for and amount of assistance under the program of aid to families with dependent children, or that would change current policy with respect to any of the matters addressed in such proposed regulation.

SEC. 9119. INCREASE IN PERSONAL NEEDS ALLOWANCE FOR SSI RECIPIENTS.

(a) INCREASE IN STANDARD.—Section 1611(e)(1)(B) of the Social Security Act is amended— 42 USC 1382.

(1) by striking "$300 per year" in clauses (i) and (ii)(I) and inserting "$360 per year"; and 101 STAT. 1330-309

(2) by striking "$600 per year" in clause (iii) and inserting "$720 per year".

(b) MANDATORY PASS-THROUGH OF INCREASED PERSONAL NEEDS ALLOWANCE.—Section 1618 of such Act is amended by adding at the end the following new subsection: 42 USC 1382g.

"(g) In order for any State which makes supplementary payments of the type described in section 1616(a) (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66) to recipients of benefits determined under section 1611(e)(1)(B), on or after October 1, 1987, to be eligible for payments pursuant to title XIX with respect to any calendar quarter which begins—

"(1) after October 1, 1987, or, if later

"(2) after the calendar quarter in which it first makes such supplementary payments to recipients of benefits so determined,

such State must have in effect an agreement with the Secretary whereby the State will—

"(3) continue to make such supplementary payments to recipients of benefits so determined, and

"(4) maintain such supplementary payments to recipients of benefits so determined at levels which assure (with respect to any particular month beginning with the month in which this subsection is first effective) that—

"(A) the combined level of such supplementary payments and the amounts payable to or on behalf of such recipients under section 1611(e)(1)(B) for that particular month,

is not less than—

"(B) the combined level of such supplementary payments and the amounts payable to or on behalf of such recipients under section 1611(e)(1)(B) for October 1987 (or, if no such supplementary payments were made for that month, the combined level for the first subsequent month for which such payments were made), increased—

"(i) in a case to which clause (i) of such section 1611(e)(1)(B) applies or (with respect to the individual or spouse who is in the hospital, home, or facility in-

volved) to which clause (ii) of such section applies, by $5, and

"(ii) in a case to which clause (iii) of such section 1611(e)(1)(B) applies, by $10.".

42 USC 1382 note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall become effective July 1, 1988.

SEC. 9120. EXCLUSION OF DEATH BENEFITS TO THE EXTENT SPENT ON LAST ILLNESS AND BURIAL.

42 USC 1382a.

(a) IN GENERAL.—Subparagraphs (D) and (E) of section 1612(a)(2) of the Social Security Act are amended to read as follows:

"(D) payments to the individual occasioned by the death of another person, to the extent that the total of such payments exceeds the amount expended by such individual for purposes of the deceased person's last illness and burial;

"(E) support and alimony payments, and (subject to the provisions of subparagraph (D) excluding certain amounts expended for purposes of a last illness and burial) gifts (cash or otherwise) and inheritances; and".

101 STAT. 1330-310

42 USC 1382a note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective April 1, 1988.

42 USC 602 note.

SEC. 9121. DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.

(a) IN GENERAL.—Upon application of the State of Washington and approval by the Secretary of Health and Human Services, the State of Washington (in this section referred to as the "State") may conduct a demonstration project in accordance with this section for the purpose of testing whether the operation of its Family Independence Program enacted in May 1987 (in this section referred to as the "Program"), as an alternative to the AFDC program under title IV of the Social Security Act, would more effectively break the cycle of poverty and provide families with opportunities for economic independence and strengthened family functioning.

(b) NATURE OF PROJECT.—Under the demonstration project conducted under this section—

(1) every individual eligible for aid under the State plan approved under section 402(a) of the Social Security Act shall be eligible to enroll in the Program, which shall operate simultaneously with the AFDC program so long as there are individuals who qualify for the latter;

(2) cash assistance shall be furnished in a timely manner to all eligible individuals under the Program (and the State may not make expenditures for services under the Program until it has paid all necessary cash assistance), with no family receiving less in cash benefits than it would have received under the AFDC program;

(3) individuals may be required to register, undergo assessment, and participate in work, education, or training under the Program, except that—

(A) work or training may not be required in the case of—

(i) a single parent of a child under six months of age, or more than one parent of such a child in a two-parent family,

(ii) a single parent with a child of any age who has received assistance for less than six months,

(iii) a single parent with a child under three years of age who has received assistance for less than three years,

(iv) an individual under 16 years of age or over 64 years of age,

(v) an individual who is incapacitated, temporarily ill, or needed at home to care for an impaired person, or

(vi) an individual who has not yet been individually notified in writing of such requirement or of the expiration of his or her exempt status under this subparagraph;

(B) participation in work or training shall in any case be voluntary during the first two years of the Program, and may thereafter be made mandatory only in counties where more than 50 percent of the enrollees can be placed in employment within three months after they are job ready;

(C) in no case shall the work and training aspect of the Program be mandated in any county where the unemployment level is at least twice the State average; and

(D) mandated work shall not include work in any position created by a reduction in the work force, a bona fide labor dispute, the decertification of a bargaining unit, or a new job classification which subverts the intention of the Program;

(4) there shall be no change in existing State law which would eliminate guaranteed benefits or reduce the rights of applicants or enrollees; and

(5) the Program shall include due process guarantees and procedures no less than those which are available to participants in the AFDC program under Federal law and regulation and under State law.

(c) WAIVERS.—The Secretary shall (with respect to the project under this section) waive compliance with any requirements contained in title IV of the Social Security Act which (if applied) would prevent the State from carrying out the project or effectively achieving its purpose, or with the requirements of sections 1902(a)(1), 1902(e)(1), and 1916 of that Act (but only to the extent necessary to enable the State to carry out the Program [92] as enacted by the State in April 1987).

(d) FUNDING.—

(1) The Secretary, under section 403(b) or 1903(d) of the Social Security Act, shall reimburse the State for its expenditures under the Program—

(A) at a rate equal to the Federal matching rate applicable to the State under section 403(a)(1) (or 1118) of the Social Security Act, for cash assistance, medical assistance, and child care provided to enrollees;

(B) at a rate equal to the applicable Federal matching rate under section 403(a)(3) of such Act, for administrative expenses; and

(C) at the rate of 75 percent for an evaluation plan approved by the Secretary.

(2) As a condition of approval of the project under this section, the State must provide assurances satisfactory to the Secretary that the total amount of Federal reimbursement over the period of the project will not exceed the anticipated Federal reimbursements (over that period) under the AFDC and Medicaid programs; but this paragraph shall not prevent the State from claiming reimbursement for additional persons who would qualify for assistance under the AFDC program, for costs attributable to increases in the State's payment standard, or for any other federally-matched benefits or services.

(e) EVALUATION.—The State must satisfy the Secretary that the Program [93] will be evaluated using a reasonable methodology.

(f) DURATION OF PROJECT.—

(1) The project under this section shall begin on the date on which the first individual is enrolled in the Program and (subject to paragraph (2)) shall end five years after that date.

(2) The project may be terminated at any time, on six months written notice, by the State or (upon a finding that the State has materially failed to comply with this section) by the Secretary.

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[92] Copy read "program".
[93] Copy read "program".

42 USC 602 note.
101 STAT. 1330-312

SEC. 9122. CHILD SUPPORT DEMONSTRATION PROGRAM IN NEW YORK STATE.

(a) IN GENERAL.—Upon application by the State of New York and approval by the Secretary of Health and Human Services (in this section referred to as the "Secretary"), the State of New York (in this section referred to as the "State") may conduct a demonstration program in accordance with this section for the purpose of testing a State program as an alternative to the program of Aid to Families with Dependent Children under title IV of the Social Security Act.

(b) NATURE OF PROGRAM.—Under the demonstration program conducted under this section—

(1) all custodial parents of dependent children who are eligible for supplements under the State plan approved under section 402(a) of the Social Security Act (and such other types or classes of such parents as the State may specify) may elect to receive benefits under the State's Child Support Supplement Program in lieu of supplements under such plan; and

(2) the Federal Government will pay to the State with respect to families receiving benefits under the State's Child Support Supplement Program the same amounts as would have been payable with respect to such families under sections 403 and 1903 of the Social Security Act as if the families were receiving aid and medical assistance under the State plans in effect with respect to such sections.

(c) WAIVERS.—The Secretary shall (with respect to the program under this section) waive compliance with any requirements contained in title IV of the Social Security Act which (if applied) would prevent the State from carrying out the program or effectively achieving its purpose.

(d) CONDITIONS OF APPROVAL.—As a condition of approval of the program under this section, the State shall—

(1) provide assurances satisfactory to the Secretary that the State—

(A) will continue to make assistance available to all eligible children in the State who are in need of financial support, and

(B) will continue to operate an effective child support enforcement program;

(2) agree—

(A) to have the program evaluated, and

Reports.

(B) to report interim findings to the Secretary at such times as the Secretary shall provide; and

(3) satisfy the Secretary that the program will be evaluated using a reasonable methodology that can determine whether changes in work behavior and changes in earnings are attributable to participation in the program.

(e) APPLICATION PROCESS.—In order to participate in the program under this section, the State must submit an application under this section not later than two years after the date of enactment of this Act. The Secretary shall approve or disapprove the application of the State not later than 90 days after the date of its submission. If the application is disapproved, the Secretary shall provide to the State a statement of the reasons for such disapproval, of the changes needed to obtain approval, and of the date by which the State may
101 STAT. 1330-313 resubmit the application.

(f) EFFECTIVE DATE.—The program under this section shall commence not later than the first day of the third calendar quarter beginning on or after the date on which the application of the State is approved in accordance with subsection (e).

(g) DURATION OF PROGRAM.—

(1) Except as provided in paragraph (2), if the Secretary approves the application of the State, the demonstration program under this section shall be conducted for a period not to exceed five years.

(2)(A) The Governor of the State may before the end of the period described in paragraph (1) terminate the demonstration program under this section if the Governor finds that the program is not successful in testing the State's Child Support Supplement Program as an alternative to the program under title IV of the Social Security Act. The Governor shall notify the Secretary of the decision to terminate the program not less than three months prior to the date of such termination.

(B) The Secretary may terminate the program before the end of such period if the Secretary finds that the program is not in compliance with the terms of the application. The Secretary shall notify the Governor of the decision to terminate the program not less than three months prior to the date of such termination.

SEC. 9123. TECHNICAL CORRECTION.

The subsection of section 1631 of the Social Security Act which was added as subsection (j) by section 11006 of the Anti-Drug Abuse Act of 1986 is redesignated as subsection (m) and is moved to the end of such section 1631 so that it appears immediately after subsection (l) thereof (as added by section 9111(a) of this Act); and the heading of such subsection is amended to read as follows: 42 USC 1383.

"Pre-Release Procedures for Institutionalized Persons".

PART 2—SOCIAL SERVICES, CHILD WELFARE SERVICES, AND OTHER PROVISIONS RELATING TO CHILDREN

SEC. 9131. PERMANENT EXTENSION OF AUTHORITY FOR VOLUNTARY FOSTER CARE PLACEMENTS.

(a) IN GENERAL.—Section 102 of the Adoption Assistance and Child Welfare Act of 1980 is amended— 42 USC 672 note.

(1) in subsection (a)(1) (in the matter preceding subparagraph (A)), by striking "and before October 1, 1987,";

(2) in subsection (c), by striking all that follows "September 30, 1979" and inserting a period; and

(3) in subsection (e), by striking "with respect to which the amendments made by this section are in effect".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective October 1, 1987. 42 USC 672 note

SEC. 9132. 2-YEAR EXTENSION OF FOSTER CARE CEILING AND OF AUTHORITY TO TRANSFER FOSTER CARE FUNDS TO CHILD WELFARE SERVICES.

(a) IN GENERAL.—Section 474 of the Social Security Act is amended— 42 USC 674.

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(1) in paragraphs (1), (2)(A)(iii), (2)(B), (4)(B), and (5)(A)(ii) of subsection (b), by striking "through 1987" and inserting "through 1989";

(2) in paragraph (5)(A) of subsection (b) (in the matter preceding clause (i)), by striking "October 1, 1987" and inserting "October 1, 1989"; and

(3) in paragraphs (1) and (2) of subsection (c), by striking "through 1987" and inserting "through 1989".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective October 1, 1987. 42 USC 674 note.

SEC. 9133. MOTHER/INFANT FOSTER CARE.

(a) IN GENERAL.—Section 475(4) of the Social Security Act is amended— 42 USC 675.

(1) by inserting "(A)" after "(4)"; and

(2) by adding at the end the following new subparagraph:

"(B) In cases where—

"(i) a child placed in a foster family home or child-care

institution is the parent of a son or daughter who is in the same home or institution, and

"(ii) payments described in subparagraph (A) are being made under this part with respect to such child,

the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter.".

42 USC 602.

(b) CONFORMING AMENDMENTS RELATING TO ELIGIBILITY UNDER OTHER PROGRAMS.—(1) Section 402(a)(24) of such Act is amended by striking "if an individual is receiving benefits under title XVI, then, for the period for which such benefits are received," and inserting the following: "if an individual is receiving benefits under title XVI or his costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made to his or her minor parent as provided in section 475(4)(B), then, for the period for which such benefits are received or such costs are so covered,".

42 USC 672.

(2) Section 472(h) of such Act is amended by adding at the end the following new sentence: "For purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are made under this section.".

42 USC 673.

(3)(A) Section 473(a)(2)(A) of such Act is amended—

(i) by striking "or" at the end of clause (i);

(ii) by adding "or" at the end of clause (ii); and

(iii) by adding after clause (ii) the following new clause:

"(iii) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent as provided in section 475(4)(B),".

(B) Section 473(a)(2)(B)(iii) of such Act is amended by inserting "or (A)(iii)" after "(A)(ii)".

(4) Section 473(b) of such Act is amended by adding at the end the following new sentence: "For purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are being made under section 472.".

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42 USC 602 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective April 1, 1988.

SEC. 9134. INCREASED FUNDING FOR SOCIAL SERVICES BLOCK GRANTS.

42 USC 1397b.

(a) INCREASE IN FUNDING.—Section 2003(c) of the Social Security Act is amended—

(A) by striking "and" at the end of paragraph (2);

(B) in paragraph (3), by striking "year" the first place it appears and all that follows through the period and inserting "years 1984, 1985, 1986, and 1987, and for each succeeding fiscal year other than the fiscal year 1988; and"; and

(C) by adding at the end the following new paragraph:

"(4) $2,750,000,000 for the fiscal year 1988.".

42 USC 1397b note.

(b) REQUIREMENT THAT ADDITIONAL FUNDS SUPPLEMENT AND NOT SUPPLANT FUNDS AVAILABLE FROM OTHER SOURCES.—The additional $50,000,000 made available to the States for the fiscal year 1988 pursuant to the amendments made by subsection (a) shall—

(A) be used only for the purpose of providing additional services under title XX of the Social Security Act; and

(B) be expended only to supplement the level of any funds that would, in the absence of the additional funds appropriated pursuant to such amendments, be available from other sources

(including any amounts available under title XX of the Social Security Act without regard to such amendments) for services in accordance with such title, and shall in no case supplant such funds from other sources or reduce the level thereof.

SEC. 9135. EXTENSION OF SOCIAL SERVICES BLOCK GRANT AND CHILD WELFARE SERVICES PROGRAMS TO AMERICAN SAMOA.

(a) SOCIAL SERVICES BLOCK GRANT PROGRAM.—(1) Section 1101(a)(1) of the Social Security Act is amended by inserting "American Samoa," after "Guam," in the last sentence. 42 USC 1301.

(2)(A) Section 2003(a) of such Act is amended by adding at the end the following new sentence: "The allotment for fiscal year 1989 and each succeeding fiscal year to American Samoa shall be an amount which bears the same ratio to the amount allotted to the Northern Mariana Islands for that fiscal year as the population of American Samoa bears to the population of the Northern Mariana Islands determined on the basis of the most recent data available at the time such allotment is determined.".

(B) Section 2003(b) of such Act is amended by inserting "American Samoa," after "the Virgin Islands," each place it appears.

(b) CHILD WELFARE SERVICES PROGRAM.—(1) Section 1101(a)(1) of such Act is amended by adding at the end thereof the following new sentence: "Such term when used in part B of title IV also includes American Samoa.".

(2) Section 421(b) of such Act is amended by striking "and Guam" and inserting "Guam, and American Samoa". 42 USC 621.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 1988. 42 USC 621 note.

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SEC. 9136. NATIONAL COMMISSION ON CHILDREN. Establishment.

Part A of title XI of the Social Security Act is amended by adding at the end the following new section:

"NATIONAL COMMISSION ON CHILDREN

"SEC. 1139. (a)(1) There is hereby established a commission to be known as the National Commission on Children (in this section referred to as the 'Commission'). 42 USC 1320b-9.

"(b)(1) The Commission shall consist of—

"(A) 12 members to be appointed by the President,

"(B) 12 members to be appointed by the Speaker of the House of Representatives, and

"(C) 12 members to be appointed by the President pro tempore of the Senate.

"(2) The President, the Speaker, and the President pro tempore shall each appoint as members of the Commission— President of U.S.

"(A) 4 individuals who—

"(i) are representatives of organizations providing services to children,

"(ii) are involved in activities on behalf of children, or

"(iii) have engaged in academic research with respect to the problems and needs of children,

"(B) 4 individuals who are elected or appointed public officials (at the Federal, State, or local level) involved in issues and programs relating to children, and

"(C) 4 individuals who are parents or representatives of parents or parents' organizations.

"(3) The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairmen of committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal programs.

"(c)(1) It shall be the duty and function of the Commission to serve as a forum on behalf of the children of the Nation and to conduct the studies and issue the report required by subsection (d). Reports.

"(2) The Commission (and any committees that it may form) shall conduct public hearings in different geographic areas of the country, both urban and rural, in order to receive the views of a broad spectrum of the public on the status of the Nation's children and on ways to safeguard and enhance the physical, mental, and emotional well-being of all of the children of the Nation, including those with physical or mental disabilities, and others whose circumstances deny them a full share of the opportunities that parents of the Nation may rightfully expect for their children.

"(3) The Commission shall receive testimony from individuals, and from representatives of public and private organizations and institutions with an interest in the welfare of children, including educators, health care professionals, religious leaders, providers of social services, representatives of organizations with children as members, elected and appointed public officials, and from parents and children speaking in their own behalf.

Reports.

"(d) The Commission shall submit to the President, and to the Committees on Finance and Labor and Human Resources of the Senate and the Committees on Ways and Means, Education and Labor, and Energy and Commerce of the House of Representatives, an interim report no later than September 30, 1988, and a final report no later than March 31, 1989, setting forth recommendations with respect to the following subjects:

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"(1) Questions relating to the health of children that the Commission shall address include—

"(A) how to reduce infant mortality,

"(B) how to reduce the number of low-birth-weight babies,

"(C) how to reduce the number of children with chronic illnesses and disabilities,

"(D) how to improve the nutrition of children,

"(E) how to promote the physical fitness of children,

"(F) how to ensure that pregnant women receive adequate prenatal care,

"(G) how to ensure that all children have access to both preventive and acute care health services, and

"(H) how to improve the quality and availability of health care for children.

"(2) Questions relating to social and support services for children and their parents that the Commission shall address include—

"(A) how to prevent and treat child neglect and abuse,

"(B) how to provide help to parents who seek assistance in meeting the problems of their children,

"(C) how to provide counseling services for children,

"(D) how to strengthen the family unit,

"(E) how children can be assured of adequate care while their parents are working or participating in education or training programs,

"(F) how to improve foster care and adoption services,

"(G) how to reduce drug and alcohol abuse by children and youths, and

"(H) how to reduce the incidence of teenage pregnancy.

"(3) Questions relating to education that the Commission shall address include—

"(A) how to encourage academic excellence for all children at all levels of education,

"(B) how to use preschool experiences to enhance educational achievement,

"(C) how to improve the qualifications of teachers,

"(D) how schools can better prepare the Nation's youth to compete in the labor market,

"(E) how parents and schools can work together to help children achieve success at each step of the academic ladder,

"(F) how to encourage teenagers to complete high school and remain in school to fulfill their academic potential,

"(G) how to address the problems of drug and alcohol abuse by young people,

"(H) how schools might lend support to efforts aimed at reducing the incidence of teenage pregnancy, and

"(I) how schools might better meet the special needs of children who have physical or mental handicaps.

"(4) Questions relating to income security that the Commission shall address include—

"(A) how to reduce poverty among children,

"(B) how to ensure that parents support their children to the fullest extent possible through improved child support collection services, including services on behalf of children whose parents are unmarried, and 101 STAT. 1330-318

"(C) how to ensure that cash assistance to needy children is adequate.

"(5) Questions relating to tax policy that the Commission shall address include—

"(A) how to assure the equitable tax treatment of families with children,

"(B) the effect of existing tax provisions, including the dependent care tax credit, the earned income tax credit, and the targeted jobs tax credit, on children living in poverty,

"(C) whether the dependent care tax credit should be refundable and the effect of such a policy,

"(D) whether the earned income tax credit should be adjusted for family size and the effect of such a policy, and

"(E) whether there are other tax-related policies which would reduce poverty among children.

"(6) In addition to addressing the questions specified in paragraphs (1) through (5), the Commission shall—

"(A) seek to identify ways in which public and private organizations and institutions can work together at the community level to identify deficiencies in existing services for families and children and to develop recommendations to ensure that the needs of families and children are met, using all available resources, in a coordinated and comprehensive manner, and

"(B) assess the existing capacities of agencies to collect and analyze data on the status of children and on relevant programs, identify gaps in the data collection system, and recommend ways to improve the collection of data and the coordination among agencies in the collection and utilization of data.

The reports required by this subsection shall be based upon the testimony received in the hearings conducted pursuant to subsection (c), and upon other data and findings developed by the Commission.

"(e)(1)(A) Members of the Commission shall first be appointed not later than 60 days after the date of the enactment of this section, for terms ending on March 31, 1989.

"(B) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the vacant position was first filled.

"(2) The Commission shall elect one of its members to serve as Chairman of the Commission. The Chairman shall be a nonvoting member of the Commission.

"(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

"(4)(A) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission.

"(B) The Commission shall meet not less than 4 times during the period beginning with the date of the enactment of this section and ending with March 31, 1989.

"(5) Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

"(6) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other

101 STAT. 1330-319 necessary expenses incurred in the performance of their duties as members of the Commission.

"(f)(1) The Commission shall appoint an Executive Director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule under title 5, United States Code.

"(2) In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(g) In carrying out its duties, the Commission, or any duly organized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which it has a responsibility under this section, as the Commission or committee may deem advisable.

"(h)(1) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities.

"(2) Upon request of the Commission, any such department or agency shall furnish any such data or information.

"(i) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(j) There are authorized to be appropriated such sums as may be necessary to carry out this section.".

SEC. 9137. BOARDER BABIES DEMONSTRATION PROJECT.

42 USC 626. Section 426 of the Social Security Act is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following new subsection:

"(b)(1) There are authorized to be appropriated $4,000,000 for each of the fiscal years 1988, 1989, and 1990 for grants by the Secretary to public or private nonprofit entities submitting applications under this subsection for the purpose of conducting demonstration projects under this subsection to develop alternative care arrangements for infants who do not have health conditions that require hospitalization and who would otherwise remain in inappropriate hospital settings.

"(2) The demonstration projects conducted under this section may include—

"(A) multidisciplinary projects designed to prevent the inappropriate hospitalization of infants and to allow infants described in paragraph (1) to remain with or return to a parent in a residential setting, where appropriate care for the infant and suitable treatment for the parent (including treatment for drug or alcohol addiction) may be assured, with the goal (where possible) of rehabilitating the parent and eliminating the need for such care for the infant;

"(B) multidisciplinary projects that assure appropriate, individualized care for such infants in a foster home or other non-medical residential setting in cases where such infant does not require hospitalization and would otherwise remain in

101 STAT. 1330-320 inappropriate hospital settings, including projects to demonstrate methods to recruit, train, and retain foster care families; and

"(C) such other projects as the Secretary determines will best serve the interests of such infants and will serve as models for projects that agencies or organizations in other communities may wish to develop.

"(3) In the case of any project which includes the use of funds authorized under this subsection for the care of infants in foster homes or other non-medical residential settings away from their

parents, there shall be developed for each such infant a case plan of the type described in section 475(1) (to the extent that such infant is not otherwise covered by such a plan), and each such project shall include a case review system of the type described in section 475(5) (covering each such infant who is not otherwise subject to such a system).

"(4) In evaluating applications from entities proposing to conduct demonstration projects under this subsection, the Secretary shall give priority to those projects that serve areas most in need of alternative care arrangements for infants described in paragraph (1).

"(5) No project may be funded unless the application therefor contains assurances that it will—

"(A) provide for adequate evaluation;

"(B) provide for coordination with local governments;

"(C) provide for community education regarding the inappropriate hospitalization of infants;

"(D) use, to the extent practical, other available private, local, State, and Federal sources for the provision of direct services; and

"(E) meet such other criteria as the Secretary may prescribe.

"(6) Grants may be used to pay the costs of maintenance and of necessary medical and social services (to the extent that these costs are not otherwise paid for under other titles of this Act), and for such other purposes as the Secretary may allow. Grants.

"(7) The Secretary shall provide training and technical assistance to grantees, as requested.".

SEC. 9138. STUDY OF INFANTS AND CHILDREN WITH AIDS IN FOSTER CARE.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct (or arrange for) a survey to determine—

(1) the total number of infants and children in the United States who have been diagnosed as having acquired immune deficiency syndrome and who have been placed in foster care;

(2) the problems encountered by social service agencies in placing infants and children with such syndrome in foster care; and

(3) the potential increase (over the five-year period beginning on the date of the enactment of this Act) in the number of infants and children with such syndrome who will require foster care.

For purposes of this section, an infant or child with acquired immune deficiency syndrome includes an infant or child who is infected with the virus associated with such syndrome.

(b) RESTRICTION ON SCOPE OF SURVEY.—In conducting (or arranging for) the survey under subsection (a), the Secretary shall assure that survey activities do not duplicate research activities conducted by the Centers for Disease Control. 101 STAT. 1330-321

(c) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary shall report to the Congress on the results of the survey conducted under subsection (a) and shall make recommendations to the Congress with respect to improving the care of infants and children with acquired immune deficiency syndrome who lack ongoing parental involvement and support.

SEC. 9139. TECHNICAL CORRECTIONS.

(a) The last sentence of section 472(a) of the Social Security Act is amended by striking out "473(a)(1)(B)" and inserting in lieu thereof "473(a)(2)(B)". 42 USC 672.

(b) Section 201(b)(2)(B) of the Immigration Reform and Control Act of 1986 is amended by striking out "Section 473(a)(1) of such Act" and inserting in lieu thereof "Section 473(a)(2) of such Act (as amended by section 1711(a) of the Tax Reform Act of 1986)". 42 USC 673.

PART 3—CHILD SUPPORT ENFORCEMENT AMENDMENTS

SEC. 9141. CONTINUATION OF CHILD SUPPORT ENFORCEMENT SERVICES TO FAMILIES NO LONGER RECEIVING AFDC.

42 USC 657.

(a) IN GENERAL.—(1) Section 457(c) of the Social Security Act is amended to read as follows:

"(c) Whenever a family with respect to which child support enforcement services have been provided pursuant to section 454(4) ceases to receive assistance under part A of this title, the State shall provide appropriate notice to the family and continue to provide such services, and pay any amount of support collected, subject to the same conditions and on the same basis as in the case of the individuals to whom services are furnished pursuant to section 454(6), except that no application or other request to continue services shall be required of a family to which this subsection applies, and the provisions of section 454(6)(B) may not be applied.".

42 USC 654.

(2) Section 454(5) of such Act is amended by striking "(except as provided in section 457(c))".

42 USC 654 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective upon enactment.

SEC. 9142. CHILD SUPPORT ENFORCEMENT SERVICES REQUIRED FOR CERTAIN FAMILIES RECEIVING MEDICAID.

(a) IN GENERAL.—Section 454 of the Social Security Act is amended—

(1)(A) by striking "an assignment under section 402(a)(26) of this title" in paragraph (4)(A) and inserting "an assignment under section 402(a)(26) or section 1912";

(B) by striking ", and" at the end of paragraph (4)(A) and inserting ", or, in the case of such a child with respect to whom an assignment under section 1912 is in effect, the State agency administering the plan approved under title XIX determines pursuant to section 1912(a)(1)(B) that it is against the best interests of the child to do so, and"; and

(C) by inserting "or medical assistance under a State plan approved under title XIX" immediately after "aid to families with dependent children" in paragraph (4)(B); and

(2)(A) by striking "provide that," and inserting "provide that (A)" in paragraph (5); and

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(B) by striking the semicolon at the end of paragraph (5) and inserting "; and (B) in any case in which support payments are collected for an individual pursuant to the assignment made under section 1912, such payments shall be made to the State for distribution pursuant to section 1912, except that this clause shall not apply to such payments for any month after the month in which the individual ceases to be eligible for medical assistance;".

42 USC 654 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on July 1, 1988.

SEC. 9143. REPEAL OF UNNECESSARY CHILD SUPPORT REVOLVING FUND.

42 USC 652.

(a) IN GENERAL.—Section 452(c) of the Social Security Act is amended to read as follows:

"(c) The Secretary of the Treasury shall from time to time pay to each State for distribution in accordance with the provisions of section 457 the amount of each collection made on behalf of such State pursuant to subsection (b).".

42 USC 652 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to amounts collected after the date of the enactment of this Act.

PART 4—UNEMPLOYMENT COMPENSATION

SEC. 9151. DETERMINATION OF AMOUNT OF FEDERAL SHARE WITH RESPECT TO CERTAIN EXTENDED BENEFITS PAYMENTS.

26 USC 3304 note.

For the purpose of determining the amount of the Federal payment to any State under section 204(a)(1) of the Federal-State Extended Unemployment Compensation Act of 1970 with respect to the implementation of paragraph (3) of section 202 (a) of such Act (as added by section 1024(a) of the Omnibus Reconciliation Act of 1980), such paragraph shall be considered to apply only with respect to weeks of unemployment beginning after October 31, 1981, except that for any State in which the State legislature did not meet in 1981, it shall be considered to apply for such purpose only with respect to weeks of unemployment beginning after October 31, 1982.

SEC. 9152. DEMONSTRATION PROGRAM TO PROVIDE SELF-EMPLOYMENT ALLOWANCES FOR ELIGIBLE INDIVIDUALS.

Contracts. 26 USC 3304 note.

(a) IN GENERAL.—The Secretary of Labor (hereinafter in this section referred to as the "Secretary") shall carry out a demonstration program under this section for the purpose of making available self-employment allowances to eligible individuals. To carry out such program, the Secretary shall enter into agreements with three States that—

(1) apply to participate in such program, and

(2) demonstrate to the Secretary that they are capable of implementing the provisions of the agreement.

(b) SELECTION OF STATES.—(1) In determining whether to enter into an agreement with a State under this section, the Secretary shall take into consideration at least—

(A) the availability and quality of technical assistance currently provided by agencies of the State to the self-employed;

(B) existing local market conditions and the business climate for new, small business enterprises in the State;

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(C) the adequacy of State resources to carry out a regular unemployment compensation program and a program under this section;

(D) the range and extent of specialized services to be provided by the State to individuals covered by such an agreement;

(E) the design of the evaluation to be applied by the State to the program; and

(F) the standards which are to be utilized by the State for the purpose of assuring that individuals who will receive self-employment assistance under this section will have sufficient experience (or training) and ability to be self employed.

(2) The Secretary may not enter into an agreement with any State under this section unless the Secretary makes a determination that the State's unemployment compensation program has adequate reserves.

(c) PROVISIONS OF AGREEMENTS.—Any agreement entered into with a State under this section shall provide that—

(1) each individual who is an eligible individual with respect to any benefit year beginning during the three-year period commencing on the date on which such agreement is entered into shall receive a self-employment allowance;

(2) self-employment allowances made to any individual under this section shall be made in the same amount, on the same terms, and subject to the same conditions as regular or extended unemployment compensation, as the case may be, paid by such State; except that—

(A) State and Federal requirements relating to availability for work, active search for work, or refusal to accept suitable work shall not apply to such individual; and

(B) such individual shall be considered to be unemployed for purposes of the State and Federal laws applicable to unemployment compensation, as long as the individual

meets the requirements applicable under this section to such individual;

(3) to the extent that such allowances are made to an individual under this section, an amount equal to the amount of such allowances shall be charged against the amount that may be paid to such individual under State law for regular or extended unemployment compensation, as the case may be;

(4) the total amount paid to an individual with respect to any benefit year under this section may not exceed the total amount that could be paid to such individual for regular or extended unemployment compensation, as the case may be, with respect to such benefit year under State law;

(5) the State shall implement a program that—

(A) is approved by the Secretary;

(B) will not result in any cost to the Unemployment Trust Fund established by section 904(a) of the Social Security Act in excess of the cost which would have been incurred by such State and charged to such Fund if the State had not participated in the demonstration program under this section;

(C) is designed to select and assist individuals for self-employment allowances, monitor the individual's self-employment, and provide, as described in subsection (d), to the Secretary a complete evaluation of the use of such allowances; and

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(D) otherwise meets the requirements of this section; and

(6) the State, from its general revenue funds, shall—

(A) repay to the Unemployment Trust Fund any cost incurred by the State and charged to the Fund which exceeds the cost which would have been incurred by such State and charged to such Fund if the State had not participated in the demonstration program under this section; and

(B) in any case in which any excess cost described in subparagraph (A) is not repaid in the fiscal year in which it was charged to the Fund, pay to the Fund an amount of interest, on the outstanding balance of such excess cost, which is sufficient (when combined with any repayment by the State described in subparagraph (A)) to reimburse the Fund for any loss which would not have been incurred if such excess cost had not been incurred.

(d) EVALUATION.—(1) Each State that enters into an agreement under this section shall carry out an evaluation of its activities under this section. Such evaluation shall be based on an experimental design with random assignment between a treatment group and a control group with not more than one-half of the individuals receiving assistance at any one time being assigned to the treatment group.

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(2) The Secretary shall use the data provided from such evaluation to analyze the benefits and the costs of the program carried out under this section, to formulate the reports under subsection (g), and to estimate any excess costs described in subsection (c)(6)(A).

(e) FINANCING.—(1) Notwithstanding section 303(a)(5) of the Social Security Act and section 3304(a)(4) of the Internal Revenue Code of 1986, amounts in the unemployment fund of a State may be used by a State to make payments (exclusive of expenses of administration) for self-employment allowances made under this section to an individual who is receiving them in lieu of regular unemployment compensation.

(2) In any case in which a self-employment allowance is made under this section to an individual in lieu of extended unemployment compensation under the Federal-State Extended Unemployment Compensation Act of 1970, payments made under this section for self-employment allowances shall be considered to be compensation described in section 204(a)(1) of such Act and paid under State law.

(f) LIMITATION.—No funds made available to a State under title III of the Social Security Act or any other Federal law may be used for the purpose of administering the program carried out by such State under this section.

(g) REPORT TO CONGRESS.—(1) Not later than two years after the date of the enactment of this Act, the Secretary shall submit an interim report to the Congress on the effectiveness of the demonstration program carried out under this section. Such report shall include—

(A) information on the extent to which this section has been utilized;

(B) an analysis of any barriers to such utilization; and

(C) an analysis of the feasibility of extending the provisions of this section to individuals not covered by State unemployment compensation laws.

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(2) Not later than four years after the date of the enactment of this Act, the Secretary shall submit a final report to the Congress on such program.

(h) FRAUD AND OVERPAYMENTS.—(1) If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received payment under this section to which he was not entitled, such individual shall be—

(A) ineligible for further assistance under this section; and

(B) subject to prosecution under section 1001 of title 18, United States Code.

(2)(A) If any person received any payment under this section to which such person was not entitled, the State is authorized to require such person to repay such assistance; except that the State agency may waive such repayment if it determines that—

(i) the providing of such assistance or making of such payment was without fault on the part of such person; and

(ii) such repayment would be contrary to equity and good conscience.

(B) No repayment shall be required under subparagraph (A) until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the person, and the determination has become final. Any determination under such subparagraph shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

(i) DEFINITIONS.—For purposes of this section—

(1) the term "eligible individual" means, with respect to any benefit year, an individual who—

(A) is eligible to receive regular or extended compensation under the State law during such benefit year;

(B) is likely to receive unemployment compensation for the maximum number of weeks that such compensation is made available under the State law during such benefit year;

(C) submits an application to the State agency for a self-employment allowance under this section; and

(D) meets applicable State requirements,

except that not more than (i) 3 percent of the number of individuals eligible to receive regular compensation in a State at the beginning of a fiscal year, or (ii) the number of persons who exhausted their unemployment compensation benefits in the fiscal year ending before such fiscal year, whichever is lesser, may be considered as eligible individuals for such State for purposes of this section during such fiscal year;

(2) the term "self-employment allowance" means compensa-

tion paid under this section for the purpose of assisting an eligible individual with such individual's self-employment; and

(3) the terms "compensation", "extended compensation", "regular compensation", "benefit year", "State", and "State law", have the respective meanings given to such terms by section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

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SEC. 9153. EXTENSION OF FUTA TAX.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 3301 of the Federal Unemployment Tax Act (26 U.S.C. 3301) are amended to read as follows:

"(1) 6.2 percent in the case of calendar years 1988, 1989, and 1990; or

"(2) 6.0 percent in the case of calendar year 1991 and each calendar year thereafter;".

26 USC 3301 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to wages paid on or after January 1, 1988.

SEC. 9154. TRANSFER OF FUNDS INTO THE FEDERAL UNEMPLOYMENT ACCOUNT AND THE EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) IN GENERAL.—Section 901 of the Social Security Act (42 U.S.C. 1101) is amended by adding at the end the following new subsection:

"Transfers For Calendar Years 1988, 1989, and 1990

"(g)(1) With respect to calendar years 1988, 1989, and 1990, the Secretary of the Treasury shall transfer from the employment security administration account—

"(A) to the Federal unemployment account an amount equal to 50 percent of the amount of tax received under section 3301(1) of the Federal Unemployment Tax Act which is attributable to the difference in the tax rates between paragraphs (1) and (2) of such section; and

"(B) to the extended unemployment compensation account an amount equal to 50 percent of such amount of tax received.

"(2) Transfers under this subsection shall be as of the beginning of the month succeeding the month in which the moneys were credited to the employment security administration account pursuant to subsection (b)(2) with respect to wages paid during such calendar years.".

(b) INCREASE IN THE LIMITATION ON THE AMOUNTS IN SUCH ACCOUNTS.—(1) Section 902(a)(2) of such Act (42 U.S.C. 1102(a)(2)) is amended by striking out "one-eighth" and inserting in lieu thereof "five-eighths".

(2) Section 905(b)(2)(B) of such Act (42 U.S.C. 1105(b)(2)(B)) is amended by striking out "one-eighth" and inserting in lieu thereof "three-eighths".

(c) CONFORMING AMENDMENTS.—(1) Section 905(b)(1) of such Act (42 U.S.C. 1105(b)(1)) is amended by striking out the last sentence thereof.

(2) Section 901(c)(3)(C) of such Act (42 U.S.C. 1101(c)(3)(C)) is amended by striking out "(i)" and all that follows through the period and inserting in lieu thereof "a tax rate of 0.6 percent.".

42 USC 1101 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of the enactment of this Act.

SEC. 9155. INTEREST ON ADVANCES TO THE FEDERAL UNEMPLOYMENT ACCOUNT AND THE EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.—Section 905(d) of the Social Security Act (42 U.S.C. 1105(d)) is amended—

(1) by striking out "(without interest)" and ", without interest,"; and

(2) by adding the following new sentence at the end: "Amounts appropriated as repayable advances for purposes of this subsection shall bear interest at a rate equal to the average rate of interest, computed as of the end of the calendar month next preceding the date of such advance, borne by all interest bearing obligations of the United States then forming part of the public debt; except that in cases in which such average rate is not a multiple of one-eighth of 1 percent, the rate of interest shall be the multiple of one-eighth of 1 percent next lower than such average rate.".

(b) FEDERAL UNEMPLOYMENT ACCOUNT.—Section 1203 of such Act (42 U.S.C. 1323) is amended—

(1) by striking out "(without interest)" and ", without interest,"; and

(2) by adding the following new sentence at the end: "Amounts appropriated as repayable advances for purposes of this subsection shall bear interest at a rate equal to the average rate of interest, computed as of the end of the calendar month next preceding the date of such advance, borne by all interest bearing obligations of the United States then forming part of the public debt; except that in cases in which such average rate is not a multiple of one-eighth of 1 percent, the rate of interest shall be the multiple of one-eighth of 1 percent next lower than such average rate.".

(c) CONFORMING AMENDMENT.—Section 903(a)(1) of such Act (42 U.S.C. 1103(a)(1)) is amended by inserting "and interest" after "all advances".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to advances made on or after the date of the enactment of this Act.

42 USC 1103 note.

SEC. 9156. CREDITING TO THE FEDERAL UNEMPLOYMENT ACCOUNT OF INTEREST EARNED ON ADVANCES TO THE STATES.

(a) IN GENERAL.—Section 1202 of the Social Security Act is amended by adding at the end the following new subsection:

"(c) Interest paid by States in accordance with this section shall be credited to the Federal unemployment account established by section 904(g) in the Unemployment Trust Fund.".

42 USC 1322.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest paid on advances made on or after the date of the enactment of this Act.

42 USC 1322 note.

Subtitle C—Manufacturers Excise Tax on Certain Vaccines

SEC. 9201. MANUFACTURERS EXCISE TAX ON CERTAIN VACCINES.

(a) IN GENERAL.—Chapter 32 of the Internal Revenue Code of 1986 (relating to manufacturers excise taxes) is amended by inserting after subchapter B the following new subchapter:

"Subchapter C—Certain Vaccines

"Sec. 4131. Imposition of tax.
"Sec. 4132. Definitions and special rules.

26 USC 4131.

"SEC. 4131. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any taxable vaccine sold by the manufacturer, producer, or importer thereof.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsec-

tion (a) shall be determined in accordance with the following table:

"If the taxable vaccine is:	The tax per dose is:
DPT vaccine	$4.56
DT vaccine	0.06
MMR vaccine	4.44
Polio vaccine	0.29.

"(2) COMBINATIONS OF VACCINES.—If any taxable vaccine is included in more than 1 category of vaccines in the table contained in paragraph (1), the amount of the tax imposed by subsection (a) on such vaccine shall be the sum of the amounts determined under such table for each category in which such vaccine is so included.

"(c) TERMINATION OF TAX IF AMOUNTS COLLECTED EXCEED PROJECTED FUND LIABILITY.—

"(1) IN GENERAL.—If the Secretary estimates under paragraph (3) that the Vaccine Injury Compensation Trust Fund would not have a negative projected balance were the tax imposed by this section to terminate as of the close of any applicable date, no tax shall be imposed by this section after such date.

"(2) APPLICABLE DATE.—For purposes of paragraph (1), the term 'applicable date' means—

"(A) the close of any calendar quarter ending on or after December 31, 1992, and

"(B) the 1st date on which petitions may not be filed under section 2111 and 2111(a) of the Public Health Service Act by reason of section 2134 of such Act and each date thereafter.

"(3) ESTIMATES BY SECRETARY.—

"(A) IN GENERAL.—The Secretary shall estimate the projected balance of the Vaccine Injury Compensation Trust Fund as of—

"(i) the close of each calendar quarter ending on or after December 31, 1992, and

"(ii) such other times as are appropriate in the case of applicable dates described in paragraph (2)(B).

"(B) DETERMINATION OF PROJECTED BALANCE.—In determining the projected balance of the Fund as of any date, the Secretary shall assume that—

"(i) the tax imposed by this section will not apply after such date, and

"(ii) there shall be paid from such Trust Fund all claims made or to be made against such Trust Fund—

"(I) with respect to vaccines administered before October 1, 1992, in the case of an applicable date described in paragraph (2)(A), or

"(II) with respect to petitions filed under section 2111 or section 2111(a) of the Public Health Service Act, in the case of an applicable date described in paragraph (2)(B).

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26 USC 4132.

"SEC. 4132. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS RELATING TO TAXABLE VACCINES.—For purposes of this subchapter—

"(1) TAXABLE VACCINE.—The term 'taxable vaccine' means any vaccine—

"(A) which is listed in the table contained in section 4131(b)(1), and

"(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

"(2) DPT VACCINE.—The term 'DPT vaccine' means any vaccine containing pertussis bacteria, extracted or partial cell bacteria, or specific pertussis antigens.

"(3) DT VACCINE.—The term 'DT vaccine' means any vaccine (other than a DPT vaccine) containing diphtheria toxoid or tetanus toxoid.

"(4) MMR VACCINE.—The term "MMR vaccine' means any vaccine against measles, mumps, or rubella. Not more than 1 tax shall be imposed by section 4131 on any MMR vaccine by reason of being a vaccine against more than 1 of measles, mumps, or rubella.

"(5) POLIO VACCINE.—The term 'polio vaccine' means any vaccine containing polio virus.

"(6) VACCINE.—The term 'vaccine' means any substance designed to be administered to a human being for the prevention of 1 or more diseases.

"(7) UNITED STATES.—The term 'United States' has the meaning given such term by section 4612(a)(4).

"(8) IMPORTER.—The term 'importer' means the person entering the vaccine for consumption, use, or warehousing.

"(b) CREDIT OR REFUND WHERE VACCINE RETURNED TO MANUFACTURER, ETC., OR DESTROYED.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, whenever any vaccine on which tax was imposed by section 4131 is—

"(A) returned (other than for resale) to the person who paid such tax, or

"(B) destroyed,

the Secretary shall abate such tax or allow a credit, or pay a refund (without interest), to such person equal to the tax paid under section 4131 with respect to such vaccine.

"(2) CLAIM MUST BE FILED WITHIN 6 MONTHS.—Paragraph (1) shall apply to any returned or destroyed vaccine only with respect to claims filed within 6 months after the date the vaccine is returned or destroyed.

"(3) CONDITION OF ALLOWANCE OF CREDIT OR REFUND.—No credit or refund shall be allowed or made under paragraph (1) with respect to any vaccine unless the person who paid the tax establishes that he—

"(A) has repaid or agreed to repay the amount of the tax to the ultimate purchaser of the vaccine, or

"(B) has obtained the written consent of such purchaser to the allowance of the credit or the making of the refund.

"(4) TAX IMPOSED ONLY ONCE.—No tax shall be imposed by section 4131 on the sale of any vaccine if tax was imposed by section 4131 on any prior sale of such vaccine and such tax is not abated, credited, or refunded. 101 STAT. 1330-330

"(c) OTHER SPECIAL RULES.—

"(1) FRACTIONAL PART OF A DOSE.—In the case of a fraction of a dose, the tax imposed by section 4131 shall be the same fraction of the amount of such tax imposed by a whole dose.

"(2) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4131."

(b) CERTAIN PROVISIONS RELATING TO TAX-FREE SALES, ETC. NOT TO APPLY.—

(1) Subsection (a) of section 4221 of such Code (relating to certain tax-free sales) is amended by adding at the end thereof the following new sentence: "In the case of the tax imposed by section 4131, paragraphs (3), (4), and (5) shall not apply and paragraph (2) shall apply only if the use of the exported vaccine meets such requirements as the Secretary may by regulations prescribe." 26 USC 4221.

(2) Paragraph (2) of section 6416(b) of such Code (relating to specified uses or resales) is amended by adding at the end thereof the following new sentence: "In the case of the tax

imposed by section 4131, subparagraphs (B), (C), and (D) shall not apply and subparagraph (A) shall apply only if the use of the exported vaccine meets such requirements as the Secretary may by regulations prescribe."

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 32 of such Code is amended by inserting after the item relating to subchapter B the following new item:

"SUBCHAPTER C. Certain vaccines."

26 USC 4131 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1988.

SEC. 9202. VACCINE INJURY COMPENSATION TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end thereof the following new section:

26 USC 9510.

"SEC. 9510. VACCINE INJURY COMPENSATION TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Vaccine Injury Compensation Trust Fund', consisting of such amounts as may be credited to such Trust Fund as provided in section 9602(b)

"(b) TRANSFERS TO TRUST FUND.—

"(1) IN GENERAL.—There are hereby appropriated to the Vaccine Injury Compensation Trust Fund amounts equivalent to the net revenues received in the Treasury from the tax imposed by section 4131 (relating to tax on certain vaccines).

"(2) NET REVENUES.—For purposes of paragraph (1), the term 'net revenues' means the amount estimated by the Secretary based on the excess of—

"(A) the taxes received in the Treasury under section 4131 (relating to tax on certain vaccines), over

"(B) the decrease in the tax imposed by chapter 1 resulting from the tax imposed by section 4131.

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"(c) EXPENDITURES FROM TRUST FUND.—

"(1) IN GENERAL.—Amounts in the Vaccine Injury Compensation Trust Fund shall be available, as provided in appropriation Acts, only for the payment of compensation under subtitle 2 of title XXI of the Public Health Service Act (as in effect on the date of the enactment of this section) for vaccine-related injury or death with respect to vaccines administered after September 30, 1988, and before October 1, 1992.

"(2) TRANSFERS FOR CERTAIN REPAYMENTS.—

"(A) IN GENERAL.—The Secretary shall pay from time to time from the Vaccine Injury Compensation Trust Fund into the general fund of the Treasury amounts equivalent to amounts paid under section 4132(b) and section 6416 with respect to the taxes imposed by section 4131.

"(B) TRANSFERS BASED ON ESTIMATES.—Transfers under subparagraph (A) shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(d) LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Vaccine Injury Compensation Trust Fund may be paid only out of such Trust Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the National Childhood Vaccine Injury Act of 1986 (or in any amendment made by such Act) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Vaccine Injury Compensation Trust Fund.

"(3) ORDER IN WHICH UNPAID CLAIMS TO BE PAID.—If at any time the Vaccine Injury Compensation Trust Fund has insufficient funds to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1) be paid in full in the order in which they are finally determined."

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"Sec. 9510. Vaccine Injury Compensation Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1988. 26 USC 9510 note.

Subtitle D—Pension Provisions

PART I—FULL-FUNDING LIMITATIONS

SEC. 9301. FULL-FUNDING LIMITATION FOR DEDUCTIONS TO QUALIFIED PLANS.

(a) GENERAL RULE.—Paragraph (7) of section 412(c) of the Internal Revenue Code of 1986 (defining full-funding limitation) is amended to read as follows: 26 USC 412.

"(7) FULL-FUNDING LIMITATION.— 101 STAT. 1330-332

"(A) IN GENERAL.—For purposes of paragraph (6), the term 'full-funding limitation' means the excess (if any) of—

"(i) the lesser of (I) 150 percent of current liability, or (II) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

"(ii) the lesser of—

"(I) the fair market value of the plan's assets, or

"(II) the value of such assets determined under paragraph (2).

"(B) CURRENT LIABILITY.—For purposes of subparagraphs (A) and (D), the term 'current liability' has the meaning given such term by subsection (l)(7) (without regard to subparagraph (D) thereof).

"(C) SPECIAL RULE FOR PARAGRAPH (6)(B).—For purposes of paragraph (6)(B), subparagraph (A)(i) shall be applied without regard to subclause (I) thereof.

"(D) REGULATORY AUTHORITY.—The Secretary may by regulations provide—

"(i) for adjustments to the percentage contained in subparagraph (A)(i) to take into account the respective ages or lengths of service of the participants,

"(ii) alternative methods based on factors other than current liability for the determination of the amount taken into account under subparagraph (A)(i), and

"(iii) for the treatment under this section of contributions which would be required to be made under the plan but for the provisions of subparagraph (A)(i)(I)."

(b) AMENDMENT TO ERISA.—Paragraph (7) of section 302(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)) is amended to read as follows:

"(7) FULL-FUNDING LIMITATION.—

"(A) IN GENERAL.—For purposes of paragraph (6), the term 'full-funding limitation' means the excess (if any) of—

"(i) the lesser of (I) 150 percent of current liability, or (II) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the

plan), over

"(ii) the lesser of—

"(I) the fair market value of the plan's assets, or

"(II) the value of such assets determined under paragraph (2).

"(B) CURRENT LIABILITY.—For purposes of subparagraphs (A) and (D), the term 'current liability' has the meaning given such term by subsection (d)(7) (without regard to subparagraph (D) thereof).

"(C) SPECIAL RULE FOR PARAGRAPH (6)(B).—For purposes of paragraph (6)(B), subparagraph (A)(i) shall be applied without regard to subclause (I) thereof.

"(D) REGULATORY AUTHORITY.—The Secretary of the Treasury may by regulations provide—

"(i) for adjustments to the percentage contained in subparagraph (A)(i) to take into account the respective ages or lengths of service of the participants,

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"(ii) alternative methods based on factors other than current liability for the determination of the amount taken into account under subparagraph (A)(i), and

"(iii) for the treatment under this section of contributions which would be required to be made under the plan but for the provisions of subparagraph (A)(i)(I)."

26 USC 412 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1987.

(2) REGULATIONS.—The Secretary of the Treasury or his delegate shall prescribe such regulations as are necessary to carry out the amendments made by this section no later than August 15, 1988.

(3) STUDY.—The Secretary of the Treasury or his delegate shall study the effect of the amendments made by this section on benefit security under defined benefit pension plans and shall report the results of such study to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate no later than August 15, 1988.

Pension Protection Act.

PART II—PENSION FUNDING AND TERMINATION REQUIREMENTS

SEC. 9302. SHORT TITLE; DEFINITIONS.

26 USC 1 note.

(a) SHORT TITLE.—This part may be cited as the "Pension Protection Act".

(b) DEFINITIONS.—For purposes of this part—

(1) 1986 CODE.—The term "1986 Code" means the Internal Revenue Code of 1986.

(2) ERISA.—The term "ERISA" means the Employee Retirement Income Security Act of 1974.

Subpart A—Modifications of Minimum Funding Standard

SEC. 9303. ADDITIONAL FUNDING REQUIREMENTS.

(a) AMENDMENTS TO 1986 CODE.—

26 USC 412.

(1) IN GENERAL.—Section 412 of the 1986 Code (relating to minimum funding standard) is amended by adding at the end thereof the following new subsection:

"(l) ADDITIONAL FUNDING REQUIREMENTS FOR PLANS WHICH ARE NOT MULTIEMPLOYER PLANS.—

"(1) IN GENERAL.—In the case of a defined benefit plan (other than a multiemployer plan) which has an unfunded current liability for any plan year, the amount charged to the funding

standard account for such plan year shall be increased by the sum of—

"(A) the excess (if any) of—

"(i) the deficit reduction contribution determined under paragraph (2) for such plan year, over

"(ii) the sum of the charges for such plan year under subparagraphs (B) (other than clauses (iv) and (v) thereof), (C), and (D) of subsection (b)(2), reduced by the sum of the credits for such plan year under subparagraph (B)(i) of subsection (b)(3), plus

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"(B) the unpredictable contingent event amount (if any) for such plan year.

Such increase shall not exceed the amount necessary to increase the funded current liability percentage to 100 percent.

"(2) DEFICIT REDUCTION CONTRIBUTION.—For purposes of paragraph (1), the deficit reduction contribution determined under this paragraph for any plan year is the sum of—

"(A) the unfunded old liability amount, plus

"(B) the unfunded new liability amount.

"(3) UNFUNDED OLD LIABILITY AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The unfunded old liability amount with respect to any plan for any plan year is the amount necessary to amortize the unfunded old liability under the plan in equal annual installments over a period of 18 plan years (beginning with the 1st plan year beginning after December 31, 1988).

"(B) UNFUNDED OLD LIABILITY.—The term 'unfunded old liability' means the unfunded current liability of the plan as of the beginning of the 1st plan year beginning after December 31, 1987 (determined without regard to any plan amendment increasing liabilities adopted after October 16, 1987).

"(C) SPECIAL RULES FOR BENEFIT INCREASES UNDER EXISTING COLLECTIVE BARGAINING AGREEMENTS.—

"(i) IN GENERAL.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and the employer ratified before October 17, 1987, the unfunded old liability amount with respect to such plan for any plan year shall be increased by the amount necessary to amortize the unfunded existing benefit increase liability in equal annual installments over a period of 18 plan years beginning with—

"(I) the plan year in which the benefit increase with respect to such liability occurs, or

"(II) if the taxpayer elects, the 1st plan year beginning after December 31, 1988.

"(ii) UNFUNDED EXISTING BENEFIT INCREASE LIABILITIES.—For purposes of clause (i), the unfunded existing benefit increase liability means, with respect to any benefit increase under the agreements described in clause (i) which takes effect during or after the 1st plan year beginning after December 31, 1987, the unfunded current liability determined—

"(I) by taking into account only liabilities attributable to such benefit increase, and

"(II) by reducing the amount determined under paragraph (8)(A)(ii) by the current liability determined without regard to such benefit increase.

"(iii) EXTENSIONS, MODIFICATIONS, ETC. NOT TAKEN INTO ACCOUNT.—For purposes of this subparagraph, any extension, amendment, or other modification of an agreement after October 16, 1987, shall not be taken into account.

"(4) UNFUNDED NEW LIABILITY AMOUNT.—For purposes of this subsection—

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"(A) IN GENERAL.—The unfunded new liability amount with respect to any plan for any plan year is the applicable percentage of the unfunded new liability.

"(B) UNFUNDED NEW LIABILITY.—The term 'unfunded new liability' means the unfunded current liability of the plan for the plan year determined without regard to—

"(i) the unamortized portion of the unfunded old liability, and

"(ii) the liability with respect to any unpredictable contingent event benefits (without regard to whether the event has occurred).

"(C) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means, with respect to any plan year, 30 percent, reduced by the product of—

"(i) .25 multiplied by

"(ii) the number of percentage points (if any) by which the funded current liability percentage exceeds 35 percent.

"(5) UNPREDICTABLE CONTINGENT EVENT AMOUNT.—

"(A) IN GENERAL.—The unpredictable contingent event amount with respect to a plan for any plan year is an amount equal to the greater of—

"(i) the applicable percentage of the product of—

"(I) 100 percent, reduced (but not below zero) by the funded current liability percentage for the plan year, multiplied by

"(II) the amount of unpredictable contingent event benefits paid during the plan year, including (except as provided by the Secretary) any payment for the purchase of an annuity contract for a participant or beneficiary with respect to such benefits, or

"(ii) the amount which would be determined for the plan year if the unpredictable contingent event benefit liabilities were amortized in equal annual installments over 7 plan years (beginning with the plan year in which such event occurs).

"(B) APPLICABLE PERCENTAGE.—

"In the case of plan years beginning in:	The applicable percentage is:
1989 and 1990	5
1991	10
1992	15
1993	20
1994	30
1995	40
1996	50
1997	60
1998	70
1999	80
2000	90
2001 and thereafter	100.

"(C) PARAGRAPH NOT TO APPLY TO EXISTING BENEFITS.—This paragraph shall not apply to unpredictable contingent event benefits (and liabilities attributable thereto) for which the event occurred before October 17, 1987.

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"(D) SPECIAL RULE FOR FIRST YEAR OF AMORTIZATION.—Unless the employer elects otherwise, the amount determined under subparagraph (A) for the plan year in which the event occurs shall be equal to 150 percent of the amount determined under subparagraph (A)(i). The amount under subparagraph (A)(ii) for subsequent plan years in the amortization period shall be adjusted in the manner provided by the Secretary to reflect the application of this subparagraph.

"(6) SPECIAL RULES FOR SMALL PLANS.—

"(A) PLANS WITH 100 OR FEWER PARTICIPANTS.—This subsection shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) PLANS WITH MORE THAN 100 BUT NOT MORE THAN 150 PARTICIPANTS.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding plan year had no more than 150 participants, the amount of the increase under paragraph (1) for such plan year shall be equal to the product of—

"(i) such increase determined without regard to this subparagraph, multiplied by

"(ii) 2 percent for the highest number of participants in excess of 100 on any such day.

"(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.

"(7) CURRENT LIABILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

"(B) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), any unpredictable contingent event benefit shall not be taken into account until the event on which the benefit is contingent occurs.

"(ii) UNPREDICTABLE CONTINGENT EVENT BENEFIT.—The term 'unpredictable contingent event benefit' means any benefit contingent on an event other than—

"(I) age, service, compensation, death, or disability, or

"(II) an event which is reasonably and reliably predictable (as determined by the Secretary).

"(C) INTEREST RATES USED.—The rate of interest used to determine current liability shall be the rate of interest used under subsection (b)(5).

"(D) CERTAIN SERVICE DISREGARDED.—

"(i) IN GENERAL.—In the case of a participant to whom this subparagraph applies, only the applicable percentage of the years of service before such individual became a participant shall be taken into account in computing the current liability of the plan.

"(ii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the applicable percentage shall be determined as follows:

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"If the years of participation are:	The applicable percentage is:
1	20
2	40
3	60
4	80
5 or more	100.

"(iii) PARTICIPANTS TO WHOM SUBPARAGRAPH APPLIES.—This subparagraph shall apply to any participant who, at the time of becoming a participant—

"(I) has not accrued any other benefit under any defined benefit plan (whether or not terminated) maintained by the employer or a member of the same controlled group of which the employer is a member, and

"(II) who first becomes a participant under the plan in a plan year beginning after December 31, 1987.

"(8) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) UNFUNDED CURRENT LIABILITY.—The term 'unfunded current liability' means, with respect to any plan year, the excess (if any) of—

"(i) the current liability under the plan, over

"(ii) value of the plan's assets determined under subsection (c)(2) reduced by any credit balance in the funding standard account.

"(B) FUNDED CURRENT LIABILITY PERCENTAGE.—The term 'funded current liability percentage' means, with respect to any plan year, the percentage which—

"(i) the amount determined under subparagraph (A)(ii), is of

"(ii) the current liability under the plan.

"(C) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414.

"(D) ADJUSTMENTS TO PREVENT OMISSIONS AND DUPLICATIONS.—The Secretary shall provide such adjustments in the unfunded old liability amount, the unfunded new liability amount, the unpredictable contingent event amount, the current payment amount, and any other charges or credits under this section as are necessary to avoid duplication or omission of any factors in the determination of such amounts, charges, or credits."

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 412(b) of the 1986 Code is amended by adding at the end thereof the following new sentence: [94] "For additional requirements in the case of plans other than multiemployer plans, see subsection (l)."

26 USC 412.

(b) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Section 302 of ERISA (29 U.S.C. 1082) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) ADDITIONAL FUNDING REQUIREMENTS FOR PLANS WHICH ARE NOT MULTIEMPLOYER PLANS.—

101 STAT. 1330-338

"(1) IN GENERAL.—In the case of a defined benefit plan (other than a multiemployer plan) which has an unfunded current liability for any plan year, the amount charged to the funding standard account for such plan year shall be increased by the sum of—

"(A) the excess (if any) of—

"(i) the deficit reduction contribution determined under paragraph (2) for such plan year, over

"(ii) the sum of the charges for such plan year under subparagraphs (B) (other than clauses (iv) and (v) thereof), (C), and (D) of subsection (b)(2), reduced by the sum of the credits for such plan year under subparagraph (B)(i) of subsection (b)(3), plus

"(B) the unpredictable contingent event amount (if any) for such plan year.

Such increase shall not exceed the amount necessary to increase the funded current liability percentage to 100 percent.

"(2) DEFICIT REDUCTION CONTRIBUTION.—For purposes of paragraph (1), the deficit reduction contribution determined under this paragraph for any plan year is the sum of—

"(A) the unfunded old liability amount, plus

"(B) the unfunded new liability amount.

[94] Incorrect indention in copy.

"(3) UNFUNDED OLD LIABILITY AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The unfunded old liability amount with respect to any plan for any plan year is the amount necessary to amortize the unfunded old liability under the plan in equal annual installments over a period of 18 plan years (beginning with the 1st plan year beginning after December 31, 1988).

"(B) UNFUNDED OLD LIABILITY.—The term 'unfunded old liability' means the unfunded current liability of the plan as of the beginning of the 1st plan year beginning after December 31, 1987 (determined without regard to any plan amendment increasing liabilities adopted after October 16, 1987).

"(C) SPECIAL RULES FOR BENEFIT INCREASES UNDER EXISTING COLLECTIVE BARGAINING AGREEMENTS.—

"(i) IN GENERAL.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and the employer ratified before October 17, 1987, the unfunded old liability amount with respect to such plan for any plan year shall be increased by the amount necessary to amortize the unfunded existing benefit increase liability in equal annual installments over a period of 18 plan years beginning with—

"(I) the plan year in which the benefit increase with respect to such liability occurs, or

"(II) if the taxpayer elects, the 1st plan year beginning after December 31, 1988.

"(ii) UNFUNDED EXISTING BENEFIT INCREASE LIABILITIES.—For purposes of clause (i), the unfunded existing benefit increase liability means, with respect to any benefit increase under the agreements described in clause (i) which takes effect during or after the 1st plan year beginning after December 31, 1987, the unfunded current liability determined—

"(I) by taking into account only liabilities attributable to such benefit increase, and

"(II) by reducing the amount determined under paragraph (8)(A)(ii) by the current liability determined without regard to such benefit increase.

"(iii) EXTENSIONS, MODIFICATIONS, ETC. NOT TAKEN INTO ACCOUNT.—For purposes of this subparagraph, any extension, amendment, or other modification of an agreement after October 16, 1987, shall not be taken into account.

"(4) UNFUNDED NEW LIABILITY AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The unfunded new liability amount with respect to any plan for any plan year is the applicable percentage of the unfunded new liability.

"(B) UNFUNDED NEW LIABILITY.—The term 'unfunded new liability' means the unfunded current liability of the plan for the plan year determined without regard to—

"(i) the unamortized portion of the unfunded old liability, and

"(ii) the liability with respect to any unpredictable contingent event benefits (without regard to whether the event has occurred).

"(C) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means, with respect to any plan year, 30 percent, reduced by the product of—

"(i) .25 multiplied by

"(ii) the number of percentage points (if any) by which the funded current liability percentage exceeds 35 percent.

101 STAT. 1330-339

"(5) UNPREDICTABLE CONTINGENT EVENT AMOUNT.—

"(A) IN GENERAL.—The unpredictable contingent event amount with respect to a plan for any plan year is an amount equal to the greater of—

"(i) the applicable percentage of the product of—

"(I) 100 percent, reduced (but not below zero) by the funded current liability percentage for the plan year, multiplied by

Contracts.

"(II) the amount of unpredictable contingent event benefits paid during the plan year, including (except as provided by the Secretary of the Treasury) any payment for the purchase of an annuity contract for a participant or beneficiary with respect to such benefits, or

"(ii) the amount which would be determined for the plan year if the unpredictable contingent event benefit liabilities were amortized in equal annual installments over 7 plan years (beginning with the plan year in which such event occurs).

101 STAT. 1330-340

"(B) APPLICABLE PERCENTAGE.—

"In the case of plan years beginning in:	The applicable percentage is:
1989 and 1990	5
1991	10
1992	15
1993	20
1994	30
1995	40
1996	50
1997	60
1998	70
1999	80
2000	90
2001 and thereafter	100.

"(C) PARAGRAPH NOT TO APPLY TO EXISTING BENEFITS.—This paragraph shall not apply to unpredictable contingent event benefits (and liabilities attributable thereto) for which the event occurred before October 17, 1987.

"(D) SPECIAL RULE FOR FIRST YEAR OF AMORTIZATION.—Unless the employer elects otherwise, the amount determined under subparagraph (A) for the plan year in which the event occurs shall be equal to 150 percent of the amount determined under subparagraph (A)(i). The amount under subparagraph (A)(ii) for subsequent plan years in the amortization period shall be adjusted in the manner provided by the Secretary of the Treasury to reflect the application of this subparagraph.

"(6) SPECIAL RULES FOR SMALL PLANS.—

"(A) PLANS WITH 100 OR FEWER PARTICIPANTS.—This subsection shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) PLANS WITH MORE THAN 100 BUT NOT MORE THAN 150 PARTICIPANTS.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding plan year had no more than 150 participants, the amount of the increase under paragraph (1) for such plan year shall be equal to the product of—

"(i) such increase determined without regard to this subparagraph, multiplied by

"(ii) 2 percent for the highest number of participants in excess of 100 on any such day.

"(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled

group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.

"(7) CURRENT LIABILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'current liability' means all liabilities to participants and their beneficiaries under the plan.

"(B) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), any unpredictable contingent event benefit shall not be taken into account until the event on which the benefit is contingent occurs.

"(ii) UNPREDICTABLE CONTINGENT EVENT BENEFIT.— 101 STAT. 1330-341
The term 'unpredictable contingent event benefit' means any benefit contingent on an event other than—

"(I) age, service, compensation, death, or disability, or

"(II) an event which is reasonably and reliably predictable (as determined by the Secretary of the Treasury).

"(C) INTEREST RATES USED.—The rate of interest used to determine current liability shall be the rate of interest used under subsection (b)(5).

"(D) CERTAIN SERVICE DISREGARDED.—

"(i) IN GENERAL.—In the case of a participant to whom this subparagraph applies, only the applicable percentage of the years of service before such individual became a participant shall be taken into account in computing the current liability of the plan.

"(ii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the applicable percentage shall be determined as follows:

"If the years of participation are:	The applicable percentage is:
1	20
2	40
3	60
4	80
5 or more	100.

"(iii) PARTICIPANTS TO WHOM SUBPARAGRAPH APPLIES.—This subparagraph shall apply to any participant who, at the time of becoming a participant—

"(I) has not accrued any other benefit under any defined benefit plan (whether or not terminated) maintained by the employer or a member of the same controlled group of which the employer is a member, and

"(II) who first becomes a participant under the plan in a plan year beginning after December 31, 1987.

"(8) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) UNFUNDED CURRENT LIABILITY.—The term 'unfunded current liability' means, with respect to any plan year, the excess (if any) of—

"(i) the current liability under the plan, over

"(ii) value of the plan's assets determined under subsection (c)(2) reduced by any credit balance in the funding standard account.

"(B) FUNDED CURRENT LIABILITY PERCENTAGE.—The term 'funded current liability percentage' means, with respect to any plan year, the percentage which—

"(i) the amount determined under subparagraph (A)(ii), is of

"(ii) the current liability under the plan.

"(C) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under

subsections[94a] (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986.

"(D) ADJUSTMENTS TO PREVENT OMISSIONS AND DUPLICATIONS.—The Secretary of the Treasury shall provide such adjustments in the unfunded old liability amount, the unfunded new liability amount, the unpredictable contingent event amount, the current payment amount, and any other charges or credits under this section as are necessary to avoid duplication or omission of any factors in the determination of such amounts, charges, or credits."

101 STAT. 1330-342

26 USC 412 note.

(c) REVISION OF VALUATION REGULATIONS.—Effective with respect to plan years beginning after December 31, 1987, the provisions of the regulations prescribed under section 412(c)(2) of the 1986 Code which permit asset valuations to be based on a range between 85 percent and 115 percent of average value shall have no force and effect with respect to plans other than multiemployer plans (as defined in section 414(f) of the 1986 Code). The Secretary of the Treasury or his delegate shall amend such regulations to carry out the purposes of the preceding sentence.

(d) VALUATION OF BONDS.—

Regulations. 26 USC 412.

(1) AMENDMENT TO 1986 CODE.—Subparagraph (B) of section 412(c)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In the case of a plan other than a multiemployer plan, this subparagraph shall not apply, but the Secretary may by regulations provide that the value of any dedicated bond portfolio of such plan shall be determined by using the interest rate under subsection (b)(5)."

Regulations. 29 USC 1082.

(2) AMENDMENT TO ERISA.—Subparagraph (B) of section 302(c)(2) of ERISA is amended by adding at the end thereof the following new sentence: "In the case of a plan other than a multiemployer plan, this subparagraph shall not apply, but the Secretary of the Treasury may by regulations provide that the value of any dedicated bond portfolio of such plan shall be determined by using the interest rate under subsection (b)(5)."

26 USC 412 note.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply with respect to plan years beginning after December 31, 1988.

(2) SUBSECTIONS (C) AND (D).—The amendments made by subsections (c) and (d) shall apply with respect to years beginning after December 31, 1987.

(3) SPECIAL RULE FOR STEEL COMPANIES.—

(A) IN GENERAL.—For any plan year beginning before January 1, 1994, any increase in the funding standard account under section 412(l) of the 1986 Code or section 302(d) of ERISA (as added by this section) with respect to any steel employee plan shall not exceed the sum of—

(i) the required percentage of the current liability under such plan, plus

(ii) the amount determined under subparagraph (C)(i) for such plan year.

(B) REQUIRED PERCENTAGE.—For purposes of subparagraph (A), the term "required percentage" means, with respect to any plan year, the excess (if any) of—

(i) the sum of—

(I) the funded current liability percentage as of the beginning of the 1st plan year beginning after December 31, 1988 (determined without regard to any plan amendment adopted after June 30, 1987), plus

(II) 1 percentage point for the plan year for which the determination under this paragraph is being made and for each prior plan year beginning after December 31, 1988, over

[94a] Copy read "subsection".

(ii) the funded current liability percentage as of the beginning of the plan year for which such determination is being made. 101 STAT. 1330-343

(C) SPECIAL RULES FOR CONTINGENT EVENTS.—In the case of any unpredictable contingent event benefit with respect to which the event on which such benefits are contingent occurs after December 17, 1987—

(i) AMORTIZATION AMOUNT.—For purposes of subparagraph (A)(ii), the amount determined under this clause for any plan year is the amount which would be determined if the unpredictable contingent event benefit liability were amortized in equal annual installments over 10 plan years (beginning with the plan year in which such event occurs).

(ii) BENEFIT AND CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (B), in determining the funded current liability percentage for any plan year, there shall not be taken into account—

(I) the unpredictable contingent event benefit liability, or

(II) any amount contributed to the plan which is attributable to clause (i).

(D) STEEL EMPLOYEE PLAN.—For purposes of this paragraph, the term "steel employee plan" means any plan if—

(i) such plan is maintained by a steel company, and

(ii) substantially all of the employees covered by such plan are employees of such company.

(E) OTHER DEFINITIONS.—For purposes of this paragraph—

(i) STEEL COMPANY.—The term "steel company" means any corporation described in section 806(b) of the Steel Import Stabilization Act.

(ii) OTHER DEFINITIONS.—The terms "current liability", "funded current liability percentage", and "unpredictable contingent event benefit" have the meanings given such terms by section 412(l) of the 1986 Code (as added by this section).

(F)[95] SPECIAL RULE.—The provisions of this paragraph shall apply in the case of a company which was originally incorporated on April 25, 1927, in Michigan and reincorporated on June 3, 1968, in Delaware in the same manner as if such company were a steel company.

SEC. 9304. TIME FOR MAKING CONTRIBUTIONS.

(a) PERIOD DURING WHICH CONTRIBUTIONS MAY BE MADE AFTER CLOSE OF YEAR.—

(1) AMENDMENT TO 1986 CODE.—Paragraph (10) of section 412(c) of the 1986 Code (relating to time when certain contributions deemed made) is amended to read as follows: 26 USC 412.

"(10) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—For purposes of this section—

"(A) PLANS OTHER THAN MULTIEMPLOYER PLANS.—In the case of a plan other than a multiemployer plan, any contributions for a plan year made by an employer during the period— 101 STAT. 1330-344

"(i) beginning on the day after the last day of such plan year, and

"(ii) ending on the day which is 8½ months after the close of the plan year,

shall be deemed to have been made on such last day.

"(B) MULTIEMPLOYER PLANS.—In the case of a multiemployer plan, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be

[95] Copy read "(E)".

deemed to have been made on such last day. For purposes of this subparagraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary."

(2) AMENDMENT TO ERISA.—Paragraph (10) of section 302(c) of ERISA (relating to time when certain contributions deemed made) (29 U.S.C. 1082(c)(10)) [96] is amended to read as follows:

"(10) For purposes of this section—

"(A) In the case of a plan other than a multiemployer plan, any contributions for a plan year made by an employer during the period—

"(i) beginning on the day after the last day of such plan year, and

"(ii) ending on the date which is 8½ months after the close of the plan year,

shall be deemed to have been made on such last day.

"(B) In the case of a multiemployer plan, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this subparagraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary of the Treasury."

Regulations.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1987.

26 USC 412 note.

(b) QUARTERLY ESTIMATED PAYMENTS REQUIRED.—

(1) AMENDMENT TO 1986 CODE.—Section 412 of the 1986 Code (relating to minimum funding standard) is amended by adding at the end thereof the following new subsection:

26 USC 412.

"(m) QUARTERLY CONTRIBUTIONS REQUIRED.—

"(1) IN GENERAL.—If a plan (other than a multiemployer plan) fails to pay the full amount of a required installment for any plan year, then the rate of interest charged to the funding standard account under subsection (b)(5) with respect to the amount of the underpayment for the period of the underpayment shall be equal to the greater of—

"(A) 175 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or

"(B) the rate under subsection (b)(5).

"(2) AMOUNT OF UNDERPAYMENT, PERIOD OF UNDERPAYMENT.—For purposes of paragraph (1)—

"(A) AMOUNT.—The amount of the underpayment shall be the excess of—

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"(i) the required installment, over

"(ii) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

"(B) PERIOD OF UNDERPAYMENT.—The period for which interest is charged under this subsection with regard to any portion of the underpayment shall run from the due date for the installment to the date on which such portion is contributed to or under the plan (determined without regard to subsection (c)(10)).

"(C) ORDER OF CREDITING CONTRIBUTIONS.—For purposes of subparagraph (A)(ii), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(3) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this subsection—

"(A) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year.

[96] Copy read "1082(c)(10)".

"(B) TIME FOR PAYMENT OF INSTALLMENTS.—

"In the case of the following required installments:	The due date is:
1st	April 15
2nd	July 15
3rd	October 15
4th	January 15 of the following year.

"(4) AMOUNT OF REQUIRED INSTALLMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The amount of any required installment shall be the applicable percentage of the required annual payment.

"(B) REQUIRED ANNUAL PAYMENT.—For purposes of subparagraph (A), the term 'required annual payment' means the lesser of—

"(i) 90 percent of the amount required to be contributed to or under the plan by the employer for the plan year under section 412 (without regard to any waiver under subsection (c) thereof), or

"(ii) 100 percent of the amount so required for the preceding plan year.

Clause (ii) shall not apply if the preceding plan year was not a year of 12 months.

"(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

"For plan years beginning in:	The applicable percentage is:
1989	6.25
1990	12.5
1991	18.75
1992 and thereafter	25.

"(D) SPECIAL RULES FOR UNPREDICTABLE CONTINGENT EVENT BENEFITS.—In the case of a plan with any unpredictable contingent event benefit liabilities—

"(i) such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B), and

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"(ii) each required installment shall be increased by the greater of—

"(I) the amount of benefits described in subsection (l)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (l)(5)(A)(ii) for the plan year.

"(5) FISCAL YEARS AND SHORT YEARS.—

"(A) FISCAL YEARS.—In applying this subsection to a plan year beginning on any date other than January 1, there shall be substituted for the months specified in this subsection, the months which correspond thereto.

"(B) SHORT PLAN YEAR.—This subsection shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary."

(2) AMENDMENT TO ERISA.—Section 302 of ERISA (29 U.S.C. 1082) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) QUARTERLY CONTRIBUTIONS REQUIRED.—

"(1) IN GENERAL.—If a plan (other than a multiemployer plan) fails to pay the full amount of a required installment for any plan year, then the rate of interest charged to the funding standard account under subsection (b)(5) with respect to the amount of the underpayment for the period of the underpayment shall be equal to the greater of—

"(A) 175 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), or

"(B) the rate under subsection (b)(5).

"(2) AMOUNT OF UNDERPAYMENT, PERIOD OF UNDERPAYMENT.—For purposes of paragraph (1)—

"(A) AMOUNT.—The amount of the underpayment shall be the excess of—

"(i) the required installment, over

"(ii) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

"(B) PERIOD OF UNDERPAYMENT.—The period for which any interest is charged under this subsection with respect to any portion of the underpayment shall run from the due date for the installment to the date on which such portion is contributed to or under the plan (determined without regard to subsection (c)(10)).

"(C) ORDER OF CREDITING CONTRIBUTIONS.—For purposes of subparagraph (A)(ii), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(3) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this subsection—

"(A) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year.

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"(B) TIME FOR PAYMENT OF INSTALLMENTS.—

"In the case of the following required installments:	The due date is:
1st	April 15
2nd	July 15
3rd	October 15
4th	January 15 of the following year.

"(4) AMOUNT OF REQUIRED INSTALLMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The amount of any required installment shall be the applicable percentage of the required annual payment.

"(B) REQUIRED ANNUAL PAYMENT.—For purposes of subparagraph (A), the term 'required annual payment' means the lesser of—

"(i) 90 percent of the amount required to be contributed to or under the plan by the employer for the plan year under section 412 of the Internal Revenue Code of 1986 (without regard to any waiver under subsection (c) thereof), or

"(ii) 100 percent of the amount so required for the preceding plan year.

Clause (ii) shall not apply if the preceding plan year was not a year of 12 months.

"(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

"For plan years beginning in:	The applicable percentage is:
1989	6.25
1990	12.5
1991	18.75
1992 and thereafter	25.

"(D) SPECIAL RULES FOR UNPREDICTABLE CONTINGENT EVENT BENEFITS.—In the case of a plan with any unpredictable contingent event benefit liabilities—

"(i) such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B), and

"(ii) each required installment shall be increased by the greater of—

"(I) the amount of benefits described in subsection (d)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (d)(5)(A)(ii) for the plan year.

"(5) FISCAL YEARS AND SHORT YEARS.—

"(A) FISCAL YEARS.—In applying this subsection to a plan year beginning on any date other than January 1, there shall be substituted for the months specified in this subsection, the months which correspond thereto.

"(B) SHORT PLAN YEAR.—This section shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary of the Treasury." Regulations.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to plan years beginning after 1988. 26 USC 412 note.

(c) INCREASE IN EXCISE TAX FROM 5 PERCENT TO 10 PERCENT.— 101 STAT. 1330-348

(1) IN GENERAL.—Section 4971(a) of the 1986 Code (relating to initial tax on failure to meet minimum funding standards) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent (5 percent in the case of a multiemployer plan)". 26 USC 4971.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after 1988. 26 USC 4971 note.

(d) REQUIREMENT OF NOTICE.—Section 101 of ERISA (relating to duty of disclosure and reporting) (29 U.S.C. 1021) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) NOTICE OF FAILURE TO MEET MINIMUM FUNDING STANDARDS.—

"(1) IN GENERAL.—If an employer of a plan other than a multiemployer plan fails to make a required installment or other payment required to meet the minimum funding standard under section 302 to a plan before the 60th day following the due date for such installment or other payment, the employer shall notify each participant and beneficiary (including an alternate payee as defined in section 206(d)(3)(K)) of such plan of such failure. Such notice shall be made at such time and in such manner as the Secretary may prescribe.

"(2) SUBSECTION NOT TO APPLY IF WAIVER PENDING.—This subsection shall not apply to any failure if the employer has filed a waiver request under section 303 with respect to the plan year to which the required installment relates, except that if the waiver request is denied, notice under paragraph (1) shall be provided within 60 days after the date of such denial.

"(3) DEFINITIONS.—For purposes of this subsection, the terms 'required installment' and 'due date' have the same meanings given such terms by section 302(e)."

(e) IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS.—

(1) AMENDMENT TO 1986 CODE.—Section 412 of the 1986 Code (as amended by this subtitle) is amended by adding at the end thereof the following new subsection:

"(n) IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS.—

"(1) IN GENERAL.—In the case of a plan to which this section applies, if—

"(A) any person fails to make a required installment under subsection (m) or any other payment required under this section before the due date for such installment or other payment, and

"(B) the unpaid balance of such installment or other payment (including interest), when added to the aggregate

unpaid balance of all preceding such installments or other payments for which payment was not made before the due date (including interest), exceeds $1,000,000,

then there shall be a lien in favor of the plan in the amount determined under paragraph (3) upon all property and rights to property, whether real or personal, belonging to such person and any other person who is a member of the same controlled group of which such person is a member.

"(2) PLANS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to a defined benefit plan (other than a multiemployer plan) for any plan year for which the funded current liability percentage (within the meaning of subsection (l)(8)(D)) of such plan is less than 100 percent.

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"(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the lesser of—

"(A) the amount by which the unpaid balances described in paragraph (1)(B) (including interest) exceed $1,000,000, or

"(B) the aggregate unpaid balance of required installments and other payments required under this section (including interest)—

"(i) for plan years beginning after 1987, and

"(ii) for which payment has not been made before the due date.

"(4) NOTICE OF FAILURE; LIEN.—

"(A) NOTICE OF FAILURE.—A person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the due date for the required installment or other payment.

"(B) PERIOD OF LIEN.—The lien imposed by paragraph (1) shall arise on the 60th day following the due date for the required installment or other payment and shall continue until the last day of the first plan year in which the plan ceases to be described in paragraph (1)(B). Such lien shall continue to run without regard to whether such plan continues to be described in paragraph (2) during the period referred to in the preceding sentence.

"(C) CERTAIN RULES TO APPLY.—Any amount with respect to which a lien is imposed under paragraph (1) shall be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 of the Employee Retirement Income Security Act of 1974 shall apply with respect to a lien imposed by subsection (a) and the amount with respect to such lien.

"(5) ENFORCEMENT.—Any lien created under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Pension Benefit Guaranty Corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) DUE DATE; REQUIRED INSTALLMENT.—The terms 'due date' and 'required installment' have the meanings given such terms by subsection (m), except that in the case of a payment other than a required installment, the due date shall be the date such payment is required to be made under this section.[97]

"(B) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414."

(2) AMENDMENT TO ERISA.—Section 302 of ERISA (as amended by this subtitle) (29 U.S.C. 1082) is amended by redesignating

[97] Copy read "section." ".

subsection (f) as subsection (g) and by adding after subsection (e) the following new subsection:

"(f) IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS.—

"(1) IN GENERAL.—In the case of a plan to which this section applies, if— 101 STAT. 1330-350

"(A) any person fails to make a required installment under subsection (e) or any other payment required under this section before the due date for such installment or other payment, and

"(B) the unpaid balance of such installment or other payment (including interest), when added to the aggregate unpaid balance of all preceding such installments or other payments for which payment was not made before the due date (including interest), exceeds $1,000,000,

then there shall be a lien in favor of the plan in the amount determined under paragraph (3) upon all property and rights to property, whether real or personal, belonging to such person and any other person who is a member of the same controlled group of which such person is a member.

"(2) PLANS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to a defined benefit plan (other than a multiemployer plan) for any plan year for which the funded current liability percentage (within the meaning of subsection (d)(8)(B)) of such plan is less than 100 percent.

"(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the lesser of—

"(A) the amount by which the unpaid balances described in paragraph (1)(B) (including interest) exceed $1,000,000, or

"(B) the aggregate unpaid balance of required installments and other payments required under this section (including interest)—

"(i) for plan years beginning after 1987, and

"(ii) for which payment has not been made before the due date.

"(4) NOTICE OF FAILURE; LIEN.—

"(A) NOTICE OF FAILURE.—A person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the due date for the required installment or other payment.

"(B) PERIOD OF LIEN.—The lien imposed by paragraph (1) shall arise on the 60th day following the due date for the required installment or other payment and shall continue until the last day of the first plan year in which the plan ceases to be described in paragraph (1)(B). Such lien shall continue to run without regard to whether such plan continues to be described in paragraph (2) during the period referred to in the preceding sentence.

"(C) CERTAIN RULES TO APPLY.—Any amount with respect to which a lien is imposed under paragraph (1) shall be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 shall apply with respect to a lien imposed by subsection (a) and the amount with respect to such lien.

"(5) ENFORCEMENT.—Any lien created under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Pension Benefit Guaranty Corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) DUE DATE; REQUIRED INSTALLMENT.—The terms 'due date' and 'required installment' have the meanings given such terms by subsection (e), except that in the case of a

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payment other than a required installment, the due date shall be the date such payment is required to be made under this section."

"(B) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986."

26 USC 412 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1987.

SEC. 9305. LIABILITY OF MEMBERS OF CONTROLLED GROUP FOR TAXES ON FAILURE TO MEET MINIMUM FUNDING STANDARDS AND TO MAKE MINIMUM FUNDING CONTRIBUTIONS.

(a) EXCISE TAX.—

26 USC 4971.

(1) IN GENERAL.—Section 4971 of the 1986 Code (relating to taxes on failure to meet minimum funding standards) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the tax imposed by subsection (a) or (b) shall be paid by the employer responsible for contributing to or under the plan the amount described in section 412(b)(3)(A).

"(2) JOINT AND SEVERAL LIABILITY WHERE EMPLOYER MEMBER OF CONTROLLED GROUP.—

"(A) IN GENERAL.—In the case of a plan other than a multiemployer plan, if the employer referred to in paragraph (1) is a member of a controlled group, each member of such group shall be jointly and severally liable for the tax imposed by subsection (a) or (b).

"(B) CONTROLLED GROUP.—For purposes of subparagraph (A), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414."

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (a) of section 4971 of the 1986 Code is amended by striking out the last sentence.

(B) Subsection (b) of section 4971 of the 1986 Code is amended by striking out the last sentence.

(b) MINIMUM FUNDING CONTRIBUTIONS.—

(1) AMENDMENT TO 1986 CODE.—Section 412(c) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) LIABILITY FOR CONTRIBUTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of any contribution required by this section and any required installments under subsection (m) shall be paid by the employer responsible for contributing to or under the plan the amount described in subsection (b)(3)(A).

"(B) JOINT AND SEVERAL LIABILITY WHERE EMPLOYER MEMBER OF CONTROLLED GROUP.—

"(i) IN GENERAL.—In the case of a plan other than a multiemployer plan, if the employer referred to in subparagraph (A) is a member of a controlled group, each member of such group shall be jointly and severally liable for payment of such contribution or required installment.

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"(ii) CONTROLLED GROUP.—For purposes of clause (i), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414."

(2) AMENDMENT TO ERISA.—Section 302(c) of ERISA (29 U.S.C. 1082(c)) is amended by adding at the end thereof the following new paragraph:

"(11) LIABILITY FOR CONTRIBUTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of any contribution required by this section and any required installments under subsection (e) shall be paid by the employer responsible for contributing to or under the plan the amount described in subsection (b)(3)(A).

"(B) JOINT AND SEVERAL LIABILITY WHERE EMPLOYER MEMBER OF CONTROLLED GROUP.—

"(i) IN GENERAL.—In the case of a plan other than a multiemployer plan, if the employer referred to in subparagraph (A) is a member of a controlled group, each member of such group shall be jointly and severally liable for payment of such contribution or required installment.

"(ii) CONTROLLED GROUP.—For purposes of clause (i), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986." [98]

(c) CONFORMING AMENDMENT.—Section 414(b) of the 1986 Code is amended by striking out "the minimum funding standard of section 412, the tax imposed by section 4971, and". 26 USC 414.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 1987. 26 USC 412 note.

SEC. 9306. FUNDING WAIVERS.

(a) REQUIREMENTS FOR WAIVERS.—

(1) AMENDMENTS TO 1986 CODE.—

(A) APPLICATION MUST BE SUBMITTED BEFORE DATE 2½ MONTHS AFTER CLOSE OF YEAR.—Subsection (d) of section 412 of the 1986 Code (relating to variance from minimum funding standard) is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION MUST BE SUBMITTED BEFORE DATE 2½ MONTHS AFTER CLOSE OF YEAR.—In the case of a plan other than a multiemployer plan, no waiver may be granted under this subsection with respect to any plan for any plan year unless an application therefor is submitted to the Secretary not later than the 15th day of the 3rd month beginning after the close of such plan year."

(B) WAIVER ALLOWED ONLY FOR TEMPORARY HARDSHIP.—Subsection (d) of section 412 of the 1986 Code is amended—

(i) by striking out "substantial business hardship" in paragraphs (1) and (2) and inserting in lieu thereof "temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan)", and

(ii) by striking out "SUBSTANTIAL" in the headings of paragraphs (1) and (2).

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(C) HARDSHIP MUST ALSO EXIST AT CONTROLLED GROUP LEVEL.—Subsection (d) of section 412 of the 1986 Code is amended by adding at the end thereof the following new paragraph: 26 USC 412.

"(5) SPECIAL RULE IF EMPLOYER IS MEMBER OF CONTROLLED GROUP.—

"(A) IN GENERAL.—In the case of a plan other than a multiemployer plan, if an employer is a member of a controlled group, the temporary substantial business hardship requirements of paragraph (1) shall be treated as met only if such requirements are met—

"(i) with respect to such employer, and

"(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

[98] Indention on paragraphs " '(11)", " '(A)", " '(B)", " '(i)", and " '(ii)", incorrect.

The Secretary may provide that an analysis of a trade or business or industry of a member need not be conducted if the Secretary determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination under this subsection.

"(B) CONTROLLED GROUP.—For purposes of subparagraph (A), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414."

(2) AMENDMENTS TO ERISA.—

(A) APPLICATION MUST BE SUBMITTED BEFORE DATE 2½ MONTHS AFTER CLOSE OF YEAR.—Section 303 of ERISA (relating to variance from minimum funding standard) (29 U.S.C. 1083) is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsection:

"(d) SPECIAL RULES.—

"(1) APPLICATION MUST BE SUBMITTED BEFORE DATE 2½ MONTHS AFTER CLOSE OF YEAR.—In the case of a plan other than a multiemployer plan, no waiver may be granted under this section with respect to any plan for any plan year unless an application therefor is submitted to the Secretary of the Treasury not later than the 15th day of the 3rd month beginning after the close of such plan year."

(B) WAIVER ALLOWED ONLY FOR TEMPORARY HARDSHIP.—Section 303 of ERISA (29 U.S.C. 1083) is amended by striking out "substantial business hardship" in subsections (a) and (b) and inserting in lieu thereof "temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan)".

(C) HARDSHIP MUST ALSO EXIST AT CONTROLLED GROUP LEVEL.—Subsection (d) of section 303 of ERISA (as amended by subparagraph (A)) (29 U.S.C. 1083) is amended by adding at the end thereof the following new paragraph:

"(2) SPECIAL RULE IF EMPLOYER IS MEMBER OF CONTROLLED GROUP.—

"(A) IN GENERAL.—In the case of a plan other than a multiemployer plan, if an employer is a member of a controlled group, the temporary substantial business hardship requirements of subsection (a) shall be treated as met only if such requirements are met—

"(i) with respect to such employer, and

"(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

The Secretary of the Treasury may provide that an analysis of a trade or business or industry of a member need not be conducted if the Secretary of the Treasury determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination under this subsection.

"(B) CONTROLLED GROUP.—For purposes of subparagraph (A), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986."

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(b) FREQUENCY OF WAIVERS.—

(1) AMENDMENTS TO 1986 CODE.—The second sentence of section 412(d)(1) of the 1986 Code is amended by striking out "more than 5 of any 15" and inserting in lieu thereof "more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan)".

26 USC 412.

(2) AMENDMENTS TO ERISA.—The second sentence of section 303(a) of ERISA (29 U.S.C. 1083(a)) is amended by striking out "more than 5 of any 15" and inserting in lieu thereof "more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan)".

(c) INTEREST ON REPAYMENT OF WAIVED CONTRIBUTIONS.—

(1) AMENDMENTS TO 1986 CODE.—

(A) Paragraph (1) of section 412(d) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "The interest rate used for purposes of computing the amortization charge described in subsection (b)(2)(C) for any plan year shall be—

"(A) in the case of a plan other than a multiemployer plan, the greater of (i) 150 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or (ii) the rate of interest used under the plan in determining costs, and

"(B) in the case of a multiemployer plan, the rate determined under section 6621(b)."

(B) Subsection (e) of section 412 of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "In the case of a plan other than a multiemployer plan, the interest rate applicable for any plan year under any arrangement entered into by the Secretary in connection with an extension granted under this subsection shall be the greater of (A) 150 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or (B) the rate of interest used under the plan in determining costs. In the case of a multiemployer plan, such rate shall be the rate determined under section 6621(b)."

(2) AMENDMENTS TO ERISA.—

(A) Subsection (a) of section 303 of ERISA (29 U.S.C. 1083(a)) is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "The interest rate used for purposes of computing the amortization charge described in subsection (b)(2)(C) for any plan year shall be— 101 STAT. 1330-355

"(A) in the case of a plan other than a multiemployer plan, the greater of (i) 150 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), or (ii) the rate of interest used under the plan in determining costs, and

"(B) in the case of a multiemployer plan, the rate determined under section 6621(b)."

(B) Subsection (a) of section 304 of ERISA (29 U.S.C. 1084(a)) is amended by striking out the last sentence and inserting in lieu thereof the following new sentence:

"In the case of a plan other than a multiemployer plan, the interest rate applicable for any plan year under any arrangement entered into by the Secretary in connection with an extension granted under this subsection shall be the greater of (A) 150 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), or (B) the rate of interest used under the plan in determining costs. In the case of a multiemployer plan, such rate shall be the rate determined under section 6621(b) of such Code."

(d) NOTICE TO PARTICIPANTS OF APPLICATION FOR FUNDING WAIVERS.—

(1) AMENDMENT TO 1986 CODE.—Section 412 (f)(4)(A) of the 1986 Code (relating to advance notice) is amended by striking out "plan." and inserting in lieu thereof "plan, and each participant, beneficiary, and alternate payee (within the meaning of section 414(p)(8)). Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV of such Act and the benefit liabilities.". 26 USC 412.

(2) AMENDMENT TO ERISA.—Section 303(e)(1) of ERISA (relating to advance notice) (29 U.S.C. 1083(e)(1)) is amended by

striking out "plan." and inserting in lieu thereof "plan, and each affected party (as defined in section 4001(a)(21)) other than the Pension Benefit Guaranty Corporation. Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV and the benefit liabilities.".

(e) DECREASE IN AMOUNT OF DEFICIENCIES REQUIRED BEFORE SECURITY REQUIRED.—

(1) AMENDMENT TO 1986 CODE.—Subparagraph (C) of section 412 (f)(3) is amended by striking out "$2,000,000" and inserting in lieu thereof "$1,000,000".

(2) AMENDMENT TO ERISA.—Section 306(c)(1) of ERISA (29 U.S.C. 1085a(c)(1)) is amended by striking out "$2,000,000" and inserting in lieu thereof "$1,000,000".

26 USC 412 note.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply in the case of—

(A) any application submitted after December 17, 1987, and

(B) any waiver granted pursuant to such an application.

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(2) SPECIAL RULE FOR APPLICATION REQUIREMENT.—

(A) IN GENERAL.—The amendments made by subsections (a)(1)(A) and (a)(2)(A) shall apply to plan years beginning after December 31, 1987.

(B) TRANSITIONAL RULE FOR YEARS BEGINNING IN 1988.—In the case of any plan year beginning during calendar 1988, section 412(d)(4) of the 1986 Code and section 303(d)(1) of ERISA (as added by subsection (a)(1)) shall be applied by substituting "6th month" for "3rd month".

(3) FREQUENCY OF WAIVERS.—In applying the second sentence of section 412(d) of the 1986 Code and section 303(a) of ERISA to plans other than multiemployer plans, the number of waivers which may be granted pursuant to applications submitted after December 17, 1987, shall be determined without regard to waivers granted with respect to plan years beginning before January 1, 1988.

(4) SUBSECTION (d).—The amendments made by subsection (d) shall apply to applications submitted more than 90 days after the date of the enactment of this Act.

SEC. 9307. OTHER FUNDING CHANGES.

(a) AMORTIZATION PERIODS.—

(1) AMENDMENTS TO 1986 CODE.—

26 USC 412.

(A) Paragraphs (2)(B)(iv), (2)(C), and (3)(B)(ii) of section 412(b) of the 1986 Code are each amended by striking out "15 plan years" and inserting in lieu thereof "5 plan years (15 plan years in the case of a multiemployer plan)".

(B) Paragraphs (2)(B)(v) and (3)(B)(iii) of section 412(b) of the 1986 Code are each amended by striking out "30 plan years" and inserting in lieu thereof "10 plan years (30 plan years in the case of a multiemployer plan)".

(2) AMENDMENTS TO ERISA.—

(A) Paragraphs (2)(B)(iv), (2)(C), and (3)(B)(ii) of section 302(b) of ERISA (29 U.S.C. 1082(b)) are each amended by striking out "15 plan years" and inserting in lieu thereof "5 plan years (15 plan years in the case of a multiemployer plan)".

(B) Paragraphs (2)(B)(v) and (3)(B)(iii) of section 302(b) of ERISA (29 U.S.C. 1082(b)) are each amended by striking out "30 plan years" and inserting in lieu thereof "10 plan years (30 plan years in the case of a multiemployer plan)".

(b) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—

(1) AMENDMENT TO 1986 CODE.—Paragraph (3) of section 412(c) of the 1986 Code is amended to read as follows:

"(3) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—For purposes of this section, all costs, liabilities, rates of interest, and

other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

"(A) in the case of—

"(i) a plan other than a multiemployer plan, each of which is reasonable (taking into account the experience of the plan and reasonable expectations) or which, in the aggregate, result in a total contribution equivalent to that which would be determined if each such assumption and method were reasonable, or

"(ii) a multiemployer plan, which, in the aggregate, are reasonable (taking into account the experiences of the plan and reasonable expectations), and

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'(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan."

(2) AMENDMENT TO ERISA.—Paragraph (3) of section 302(c) of ERISA (29 U.S.C. 1082(c)(3)) is amended to read as follows:

"(3) For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

"(A) in the case of—

"(i) a plan other than a multiemployer plan, each of which is reasonable (taking into account the experience of the plan and reasonable expectations) or which, in the aggregate, result in a total contribution equivalent to that which would be determined if each such assumption and method were reasonable, or

"(ii) a multiemployer plan, which, in the aggregate, are reasonable (taking into account the experiences of the plan and reasonable expectations), and

"(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan."

(c) LIMITATION ON DEDUCTION FOR CONTRIBUTIONS TO CERTAIN PLANS NOT LESS THAN UNFUNDED CURRENT LIABILITY.—Paragraph (1) of section 404(a) of the 1986 Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

26 USC 404.

"(D) SPECIAL RULE IN CASE OF CERTAIN PLANS.—In the case of any defined benefit plan (other than a multiemployer plan) which has more than 100 participants for the plan year, except as provided in regulations, the maximum amount deductible under the limitations of this paragraph shall not be less than the unfunded current liability determined under section 412(l) (without regard to any reduction by the credit balance in the funding standard account). For purposes of this subparagraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group (within the meaning of section 412(l)(8)(c))) shall be treated as 1 plan, but only employees of such member or employer shall be taken into account."

(d) LIMITATION ON AMORTIZATION OF PAST SERVICE CREDITS.—Clause (iii) of section 404(a)(1)(A) of the 1986 Code (relating to pension trusts) is amended by striking out "to amortize such credits" and inserting in lieu thereof "to amortize the unfunded costs attributable to such credits".

(e) LIMITATION ON INTEREST RATE.—

(1) AMENDMENT TO 1986 CODE.—Paragraph (5) of section 412(b) of the 1986 Code (relating to interest) is amended to read as follows:

"(5) INTEREST.—

"(A) IN GENERAL.—The funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary) with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs.

Regulations.

"(B) REQUIRED CHANGE OF INTEREST RATE.—For purposes of determining a plan's current liability and for purposes of determining a plan's required contribution under section 412(l) for any plan year—

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"(i) IN GENERAL.—If any rate of interest used under the plan to determine cost is not within the permissible range, the plan shall establish a new rate of interest within the permissible range.

"(ii) PERMISSIBLE RANGE.—For purposes of this subparagraph—

"(I) IN GENERAL.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 10 percent above, and not more than 10 percent below, the weighted average of the rates of interest on 30-year Treasury securities during the 4-year period ending on the last day before the beginning of the plan year.

"(II) SECRETARIAL AUTHORITY.—If the Secretary finds that the lowest rate of interest permissible under subclause (I) is unreasonably high, the Secretary may prescribe a lower rate of interest, except that such rate may not be less than 80 percent of the average rate determined under subclause (I).

"(iii) ASSUMPTIONS.—Notwithstanding subsection (c)(3)(A)(i), for purposes of this section and for purposes of determining current liability, the interest rate used under the plan shall be—

"(I) determined without taking into account the experience of the plan and reasonable expectations, but

"(II) consistent with the assumptions which reflect the purchase rates which would be used by insurance companies to satisfy the liabilities under the plan.".

(2) AMENDMENT TO ERISA.—Paragraph (5) of section 302(b) of ERISA (relating to interest) (29 U.S.C. 1082(b)(5)) is amended to read as follows:

"(5) INTEREST.—For purposes of determining a plan's current liability and for purposes of determining a plan's required contribution under section 412(l) for any plan year—

Regulations.

"(A) IN GENERAL.—The funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary of the Treasury) with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs.

"(B) REQUIRED CHANGE OF INTEREST RATE.—

"(i) IN GENERAL.—If any rate of interest used under the plan to determine cost is not within the permissible range, the plan shall establish a new rate of interest within the permissible range.

"(ii) PERMISSIBLE RANGE.—For purposes of this subparagraph—

"(I) IN GENERAL.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 10 percent above, and not more than 10 percent below, the average rate of interest on 30-year Treasury securities during the 4-year period ending on the last day before the beginning of the plan year.

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"(II) SECRETARIAL AUTHORITY.—If the Secretary finds that the lowest rate of interest permissible under subclause (I) is unreasonably high, the Secretary may prescribe a lower rate of interest, except that such rate may not be less than 80 percent of the average rate determined under subclause (I).

"(iii) ASSUMPTIONS.—Notwithstanding subsection (c)(3)(A)(i), for purposes of this section and for purposes of determining current liability, the interest rate used under the plan shall be—

"(I) determined without taking into account the experience of the plan and reasonable expectations, but

"(II) consistent with the assumptions which reflect the purchase rates which would be used by insurance companies to satisfy the liabilities under the plan.".[98a]

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1987. 26 USC 404 note.

Subpart B—Plan Terminations

SEC. 9311. LIMITATIONS ON EMPLOYER REVERSIONS UPON PLAN TERMINATION.

(a) RESTRICTIONS ON REVERSIONS PURSUANT TO RECENTLY AMENDED PLANS.—

(1) IN GENERAL.—Section 4044(d) of ERISA (29 U.S.C. 1344(d)) is amended—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2)(A) In determining the extent to which a plan provides for the distribution of plan assets to the employer for purposes of paragraph (1)(C), any such provision, and any amendment increasing the amount which may be distributed to the employer, shall not be treated as effective before the end of the fifth calendar year following the date of the adoption of such provision or amendment.

"(B) A distribution to the employer from a plan shall not be treated as failing to satisfy the requirements of this paragraph if the plan has been in effect for fewer than 5 years and the plan has provided for such a distribution since the effective date of the plan.

"(C) Except as otherwise provided in regulations of the Secretary of the Treasury, in any case in which a transaction described in section 208 occurs, subparagraph (A) shall continue to apply separately with respect to the amount of any assets transferred in such transaction. Regulations.

"(D) For purposes of this subsection, the term 'employer' includes any member of the controlled group of which the employer is a member. For purposes of the preceding sentence, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m) or (o) of section 414 of the Internal Revenue Code of 1986."

(2) TRANSITIONAL RULE.—The amendments made by paragraph (1) shall apply, in the case of plans which, as of December 17, 1987, have no provision relating to the distribution of plan assets to the employer for purposes of section 4044(d)(1)(C) of the Employee Retirement Income Security Act of 1974, only with respect to plan amendments providing for the distribution of plan assets to the employer which are adopted after 1 year after the effective date of such amendments made by paragraph (1). Such amendment shall not apply to any provision of the plan adopted on or before December 17, 1987, which provides for the distribution of plan assets to the employer. 29 USC 1344 note.

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(b) DISTRIBUTION OF ASSETS ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS.—Section 4044(d) of ERISA (29 U.S.C. 1344(d)) is amended—

(1) in paragraph (1), by striking "Any" and inserting "Subject to paragraph (3), any"; and

(2) by striking paragraph (3) (as redesignated by subsection (c)(1)) and inserting the following new paragraph:

[98a] Copy read "plan."

"(3)(A) Before any distribution from a plan pursuant to paragraph (1), if any assets of the plan attributable to employee contributions remain after satisfaction of all liabilities described in subsection (a), such remaining assets shall be equitably distributed to the participants who made such contributions or their beneficiaries (including alternate payees, within the meaning of section 206(d)(3)(K)).

"(B) For purposes of subparagraph (A), the portion of the remaining assets which are attributable to employee contributions shall be an amount equal to the product derived by multiplying—

"(i) the market value of the total remaining assets, by

"(ii) a fraction—

"(I) the numerator of which is the present value of all portions of the accrued benefits with respect to participants which are derived from participants' mandatory contributions (referred to in subsection (a)(2)), and

"(II) the denominator of which is the present value of all benefits with respect to which assets are allocated under paragraphs (2) through (6) of subsection (a).

"(C) For purposes of this paragraph, each person who is, as of the termination date—

"(i) a participant under the plan, or

"(ii) an individual who has received, during the 3-year period ending with the termination date, a distribution from the plan of such individual's entire nonforfeitable benefit in the form of a single sum distribution in accordance with section 203(e) or in the form of irrevocable commitments purchased by the plan from an insurer to provide such nonforfeitable benefit,

shall be treated as a participant with respect to the termination, if all or part of the nonforfeitable benefit with respect to such person is or was attributable to participants' mandatory contributions (referred to in subsection (a)(2))."

(c) TECHNICAL AMENDMENT.—Section 4044(b)(4) of ERISA (29 U.S.C. 1344(b)(4)) is amended by striking "section 401(a), 403(a), or 405(a)" and inserting "section 401(a) or 403(a)".

29 USC 1344 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to—

(1) plan terminations under section 4041(c) of ERISA with respect to which notices of intent to terminate are provided under section 4041(a)(2) of ERISA after December 17, 1987, and

(2) plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of ERISA after December 17, 1987.

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SEC. 9312. ELIMINATION OF SECTION 4049 TRUST; INCREASE IN LIABILITY TO PENSION BENEFIT GUARANTY CORPORATION AND IN PAYMENTS BY CORPORATION TO PARTICIPANTS AND BENEFICIARIES.

(a) REPEAL.—Section 4049 of ERISA (29 U.S.C. 1349) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) ELIMINATION OF EMPLOYER LIABILITY TO SECTION 4049 TRUST.—

(A) REPEAL.—Subsection (c) of section 4062 of ERISA (29 U.S.C. 1362(c)) is repealed.

(B) CONFORMING AMENDMENTS.—Section 4062 of ERISA is further amended by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(2) INCREASE IN EMPLOYER LIABILITY TO THE CORPORATION.—

(A) IN GENERAL.—Subparagraph (A) of section 4062(b)(1) of ERISA (29 U.S.C. 1362(b)(1)(A)) is amended to read as follows:

Regulations.

"(A) IN GENERAL.—Except as provided in subparagraph (B), the liability to the corporation of a person described in subsection (a) shall be the total amount of the unfunded

benefit liabilities (as of the termination date) to all participants and beneficiaries under the plan, together with interest (at a reasonable rate) calculated from the termination date in accordance with regulations prescribed by the corporation."

(B) LIEN LIMITED TO 30 PERCENT OF NET WORTH.—

(i) Subsection (a) of section 4068 of ERISA (29 U.S.C. 1368(a)) is amended by striking out "to the extent of an amount equal to the unpaid amount described in section 4062(b)(1)(A)(i)" each place it appears and inserting in lieu thereof "to the extent such amount does not exceed 30 percent of the collective net worth of all persons described in section 4062(a)".

(ii) Title IV of ERISA (29 U.S.C. 4001 et seq.) is amended by transferring subsection (e) of section 4062 of ERISA (29 U.S.C. 1362(e)) to the end of section 4068 of ERISA (29 U.S.C. 1368) and by redesignating such subsection as subsection (f).

(C) TREATMENT OF MULTIPLE CONTROLLED GROUPS.—

(i) IN GENERAL.—So much of section 4064(b) of ERISA (29 U.S.C. 1364(b)) as precedes the second sentence is amended to read as follows:

"(b) The corporation shall determine the liability with respect to each contributing sponsor and each member of its controlled group in a manner consistent with section 4062, except that the amount of liability determined under section 4062(b)(1) with respect to the entire plan shall be allocated to each controlled group by multiplying such amount by a fraction—

"(1) the numerator of which is the amount required to be contributed to the plan for the last 5 plan years ending prior to the termination date by persons in such controlled group as contributing sponsors, and

"(2) the denominator of which is the total amount required to be contributed to the plan for such last 5 plan years by all persons as contributing sponsors,

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and clauses (i)(II) and (ii) of section 4062(b)(1)(A) shall be applied separately with respect to each controlled group."

(ii) CONFORMING AMENDMENTS.—Section 4068(a) of ERISA (29 U.S.C. 1368(a)) is amended by adding at the end thereof the following new sentence: "The preceding provisions of this subsection shall be applied in a manner consistent with the provisions of section 4064(d) relating to treatment of multiple controlled groups."

(3) PAYMENT BY CORPORATION TO PARTICIPANTS AND BENEFICIARIES OF RECOVERY PERCENTAGE OF OUTSTANDING AMOUNT OF BENEFIT LIABILITIES.—

(A) IN GENERAL.—Section 4022 of ERISA (29 U.S.C. 1322) is amended—

(i) by redesignating subsections (c) and (d) as subsections (d) and (e); and

(ii) by inserting after subsection (b) the following new subsection:

"(c)(1) In addition to benefits paid under the preceding provisions of this section with respect to a terminated plan, the corporation shall pay the portion of the amount determined under paragraph (2) which is allocated with respect to each participant under section 4044(a), to such participant or (in the case of a deceased participant) to such participant's beneficiaries (including alternate payees, within the meaning of section 206(d)(3)(K)).

"(2) The amount determined under this paragraph is an amount equal to the product derived by multiplying—

"(A) the outstanding amount of benefit liabilities under the plan (including interest calculated from the termination date), by

"(B) the applicable recovery ratio.

"(3)(A) Except as provided in subparagraph (C), for purposes of this subsection, the term 'recovery ratio' means the average ratio, with respect to prior plan terminations described in subparagraph (B), of—

"(i) the value of the recovery of the corporation under section 4062, 4063, or 4064 in connection with such prior terminations, to

"(ii) the amount of unfunded benefit liabilities under such plans as of the termination date in connection with such prior terminations.

"(B) A plan termination described in this subparagraph is a termination with respect to which—

"(i) the corporation has determined the value of recoveries under section 4062, 4063, or 4064, and

"(ii) notices of intent to terminate were provided after December 17, 1987.

"(C) In the case of a terminated plan with respect to which the outstanding amount of benefit liabilities exceeds $20,000,000, for purposes of this section, the term 'recovery ratio' means, with respect to the termination of such plan, the ratio of—

"(i) the value of the recoveries of the corporation under section 4062, 4063, or 4064 in connection with such plan, to

"(ii) the amount of unfunded benefit liabilities under such plan as of the termination date.

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"(4) Determinations under this subsection shall be made by the corporation. Such determinations shall be binding unless shown by clear and convincing evidence to be unreasonable."

29 USC 1322 note.

(B) TRANSITIONAL RULE.—

(i) IN GENERAL.—In the case of any plan termination to which the amendments made by this section apply and with respect to which notices of intent to terminate were provided on or before December 17, 1990—

(I) subparagraph (A) of section 4022(c)(1) of ERISA (as amended by this paragraph) shall not apply, and

(II) subparagraph (B) of section 4022(c)(1) of ERISA (as so amended) shall apply irrespective of the outstanding amount of benefit liabilities under the plan.

(ii) LIMITATION.—Clause (i) shall not apply in the case of any plan termination referred to in clause (i) with respect to which the recovery ratio is not finally determined under section 4022(c)(1)(B) of ERISA (as so amended) as of December 17, 1990.

(4) BENEFIT LIABILITIES.—Paragraph (16) of section 4001(a) of ERISA (29 U.S.C. 1301(a)(16)) is amended to read as follows:

"(16) 'benefit liabilities' means the benefits of employees and their beneficiaries under the plan (within the meaning of section 401(a)(2) of the Internal Revenue Code of 1986);".

(5) OUTSTANDING AMOUNT OF BENEFIT LIABILITIES.—Paragraph (19) of section 4001(a) of ERISA (29 U.S.C. 1301(a)(19)) is amended to read as follows:

"(19) 'outstanding amount of benefit liabilities' means, with respect to any plan, the excess (if any) of—

"(A) the value of the benefit liabilities under the plan (determined as of the termination date on the basis of assumptions prescribed by the corporation for purposes of section 4044), over

"(B) the value of the benefit liabilities which would be so determined by only taking into account benefits which are guaranteed under section 4022 or to which assets of the plan are allocated under section 4044;".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 4041(c)(3)(B)(ii) of ERISA (29 U.S.C. 1341(c)(3)(B)(ii)) is amended—

(A) by striking subclause (II);

(B) by striking "plan, and" at the end of subclause (I) and inserting "plan."; and

(C) by striking "available to it—" and all that follows through "the plan administrator" and inserting "available to it, the plan administrator".

(2) Section 4041(c)(3)(B)(iii) of ERISA (29 U.S.C. 1341(c)(3)(B)(iii)) is amended—

(A) by striking subclause (II);

(B) by striking "section 4042, and" at the end of subclause (I) and inserting "section 4042."; and

(C) by striking "available to it—" and all that follows through "the corporation" in subclause (I) and inserting "available to it, the corporation".

(3) Subsection (i) of section 4042 of ERISA (29 U.S.C. 1342(i)) is repealed.

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(4) Section 4005(g) of ERISA (29 U.S.C. 1305(g)) is amended by striking out "or fiduciaries with respect to trusts to which the requirements of section 4049 apply".

(d) EFFECTIVE DATE.— 29 USC 1301 note.

(1) IN GENERAL.—The amendments made by this section shall apply with respect to—

(A) plan terminations under section 4041(c) of ERISA with respect to which notices of intent to terminate are provided under section 4041(a)(2) of ERISA after December 17, 1987, and

(B) plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of ERISA after December 17, 1987.

(2) SECTION 4049 ADMINISTRATIVE EXPENSES UNDER PRIOR TERMINATIONS.—Section 4049(a) of ERISA (as effective under paragraph (1)), is amended by adding at the end thereof the following new sentence: "Reasonable administrative expenses incurred in carrying out the responsibilities under this section prior to the receipt of any liability payments under section 4062(c) shall be paid by the persons described in section 4062(a) in accordance with procedures which shall be prescribed by the corporation by regulation, and the amount of the liability determined under section 4062(c) shall be reduced by the amount of such expenses so paid." Regulations. 29 USC 1349.

SEC. 9313. STANDARDS FOR TERMINATION.

(a) STANDARD TERMINATION PROCEDURES AVAILABLE ONLY WHEN ASSETS SUFFICIENT TO MEET BENEFIT LIABILITIES.—

(1) IN GENERAL.—Subparagraph (D) of section 4041(b)(1) of ERISA (29 U.S.C. 1341(b)(1)(D)) is amended to read as follows:

"(D) when the final distribution of assets occurs, the plan is sufficient for benefit liabilities (determined as of the termination date)."

(2) TECHNICAL AMENDMENTS.—

(A) Paragraphs (2)(A), (2)(C), (2)(D), and (3) of section 4041(b) of ERISA (29 U.S.C. 1341(b)(2)(A), (2)(C), (2)(D), (3)) are each amended by striking out "benefit commitments" each place it appears and inserting in lieu thereof "benefit liabilities".

(B) Subparagraph (B) of section 4041(b)(2) of ERISA (29 U.S.C. 1341(b)(2)(B)) is amended—

(i) by striking out "the amount of such person's benefit commitments (if any)" and inserting in lieu thereof "the amount of the benefit liabilities (if any) attributable to such person"; and

(ii) by striking out "such benefit commitments" and inserting in lieu thereof "such benefit liabilities".

(C)(i) Subparagraph (A) of section 4041(b)(3) of ERISA (29 U.S.C. 1341(b)(3)(A)) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) purchase irrevocable commitments from an insurer to provide all benefit liabilities under the plan, or

"(ii) in accordance with the provisions of the plan and any applicable regulations, otherwise fully provide all benefit liabilities under the plan."

101 STAT. 1330-365

(ii) Subparagraph (B) of section 4041(b)(3) of ERISA (29 U.S.C. 1341(b)(3)) is amended by striking out "so as to pay" and all that follows and inserting in lieu thereof "so as to pay all benefit liabilities under the plan".

(D) Paragraphs (2) and (3) of section 4041(c) of ERISA (29 U.S.C. 1341(c) (2), (3)) are each amended by striking out "benefit commitments" each place it appears (including in any heading) and inserting in lieu thereof "benefit liabilities".

(E) Paragraph (1) of section 4041(d) of ERISA (29 U.S.C. 1341(d)) is amended—

(i) by striking out "no amount of unfunded benefit commitments" and inserting in lieu thereof "no amount of unfunded benefit liabilities", and

(ii) by striking out "BENEFIT COMMITMENTS" in the paragraph heading and inserting in lieu thereof "BENEFIT LIABILITIES".

(F) Paragraph (18) of section 4001(a) of ERISA (29 U.S.C. 1301(a)(18)) is amended to read as follows:

"(18) 'amount of unfunded benefit liabilities' means, as of any date, the excess (if any) of—

"(A) the value of the benefit liabilities under the plan (determined as of such date on the basis of assumptions prescribed by the corporation for purposes of section 4044), over

"(B) the current value (as of such date) of the assets of the plan;".

(b) CRITERIA FOR DISTRESS TERMINATION.—

(1) APPLICABILITY TO ALL MEMBERS OF CONTROLLED GROUP.—Section 4041(c)(2) of ERISA (29 U.S.C. 1341(c)(2)) is amended—

(A) in subparagraph (B), by striking "a substantial member" in the matter preceding clause (i) and inserting "a member"; and

(B) by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(2) REQUIREMENT OF ADDITIONAL FINDINGS TO QUALIFY FOR DISTRESS TERMINATION BASED ON REORGANIZATION IN BANKRUPTCY.—Section 4041(c)(2)(B)(ii)(III) of ERISA (29 U.S.C. 1341(c)(2)(B)(ii)(III)) is amended by striking "approves the termination" and inserting "determines that, unless the plan is terminated, such person will be unable to pay all its debts pursuant to a plan of reorganization and will be unable to continue in business outside the chapter 11 reorganization process and approves the termination".

(3) CLARIFICATION OF DATE AS OF WHICH EMPLOYER MUST BE IN A BANKRUPTCY PROCEEDING TO QUALIFY FOR DISTRESS TERMINATION.—Clauses (i) and (ii) of section 4041(c)(2)(B) of ERISA (29 U.S.C. 1341(c)(2)(B) (i) and (ii)) are each amended by inserting "proposed" before "termination date".

(4) TREATMENT UNDER DISTRESS TESTS OF CASES CONVERTED TO LIQUIDATION.—Section 4041(c)(2)(B)(i)(I) of ERISA (29 U.S.C. 1341(c)(2)(B)(i)(I)) is amended by inserting before the comma at the end the following: "(or a case described in clause (ii) filed by or against such person has been converted, as of such date, to a case in which liquidation is sought)".

(5) NOTICE TO CORPORATION UNDER REORGANIZATION DISTRESS TEST.—Section 4041(c)(2)(B)(ii) of ERISA (29 U.S.C 1341(c)(2)(B)(ii)) is amended—

(A) in subclause (II), by striking "and" at the end;

(B) by redesignating subclause (III) as subclause (IV); 101 STAT. 1330-366
(C) by inserting after subclause (II) the following new subclause:

"(III) such person timely submits to the corporation any request for the approval of the bankruptcy court (or other appropriate court in a case under such similar law of a State or political subdivision) of the plan termination, and";

and

(D) in subclause (IV) (as redesignated), by striking "(or other" and all that follows through "subdivision)" and inserting "(or such other appropriate court)".

(6) ARRANGEMENTS FOR PAYMENT OF LIABILITY BY CONTROLLED GROUPS.—Section 4067 of ERISA (29 U.S.C. 1367) is amended by striking "controlled groups who are" and inserting "controlled groups who are or may become".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan terminations under section 4041 of ERISA with respect to which notices of intent to terminate are provided under section 4041(a)(2) of ERISA after December 17, 1987. 29 USC 1301 note.

SEC. 9314. ADDITIONAL AMENDMENTS RELATING TO PLAN TERMINATION.

(a) CERTAIN INFORMATION NOT REQUIRED FROM CERTAIN INSURANCE CONTRACT PLANS.—

(1) STANDARD TERMINATION.—Section 4041(b)(2)(A) of ERISA (29 U.S.C. 1341(b)(2)(A)) is amended—

(A) by striking clause (iii) and inserting the following:

"(iii) certification by the plan administrator that—

"(I) the information on which the enrolled actuary based the certification under clause (i) is accurate and complete, and

"(II) the information provided to the corporation under clause (ii) is accurate and complete."; and

(B) by adding at the end thereof the following:

"Clause (i) and clause (iii)(I) shall not apply to a plan described in section 412(i) of the Internal Revenue Code of 1986.".

(2) DISTRESS TERMINATION.—Section 4041(c)(2)(A) of ERISA (29 U.S.C. 1341(c)(2)(A)) is amended—

(A) by striking clause (iv) and inserting the following:

"(iv) certification by the plan administrator that—

"(I) the information on which the enrolled actuary based the certifications under clause (ii) is accurate and complete, and

"(II) the information provided to the corporation under clauses (i) and (iii) is accurate and complete."; and

(B) by adding at the end the following:

"Clause (ii) and clause (iv)(I) shall not apply to a plan described in section 412(i) of the Internal Revenue Code of 1986.".

(b) CLARIFICATION OF EXISTING AUTHORITY TO POOL ASSETS OF TERMINATED PLANS.—Section 4042 of ERISA (29 U.S.C. 1342(a)) is amended by striking the third sentence and inserting the following: "Notwithstanding any other provision of this title, the corporation is authorized to pool assets of terminated plans for purposes of administration, investment, payment of liabilities of all such terminated plans, and such other purposes as it determines to be appropriate in the administration of this title.". 101 STAT. 1330-367

(b) SUBMISSION OF PLAN DATA IN INVOLUNTARY TERMINATION.—Section 4042(c) of ERISA (29 U.S.C. 1342(c)) is amended by adding at the end the following new paragraph:

"(3) In the case of a proceeding initiated under this section, the plan administrator shall provide the corporation, upon the request of the corporation, the information described in clauses (ii), (iii), and (iv) of section 4041(c)(2)(A).".

(c) CIVIL PENALTIES FOR FAILURE TO TIMELY PROVIDE REQUIRED INFORMATION RELATING TO SINGLE-EMPLOYER PLANS.—

(1) IN GENERAL.—Subtitle D of ERISA (29 U.S.C. 1361 et seq.) is amended by adding at the end the following new section:

"PENALTY FOR FAILURE TO TIMELY PROVIDE REQUIRED INFORMATION

29 USC 1371.

"SEC. 4071. The corporation may assess a penalty, payable to the corporation, against any person who fails to provide any notice or other material information required under this subtitle or subtitle A, B, or C, or any regulations prescribed under any such subtitle, within the applicable time limit specified therein. Such penalty shall not exceed $1,000 for each day for which such failure continues.".

(2) CLERICAL AMENDMENTS.—The table of contents in section 1 of ERISA (29 U.S.C. 1001 note) is amended by adding after the item relating to section 4070 the following new item:

"Sec. 4071. Penalty for failure to timely provide required information.".

Subpart C—Increase in Premium Rates

SEC. 9331. INCREASE IN PREMIUM RATES.

(a) GENERAL RULE.—Clause (i) of section 4006(a)(3)(A) of ERISA (29 U.S.C. 1306(a)(3)(A)) is amended by striking out "for plan years beginning after December 31, 1985, an amount equal to $8.50" and inserting in lieu thereof "for plan years beginning after December 31, 1987, an amount equal to the sum of $16 plus the additional premium (if any) determined under subparagraph (E)".

(b) DETERMINATION OF ADDITIONAL PREMIUM.—Paragraph (3) of section 4006(a) of ERISA (29 U.S.C. 1306(a)(3)) is amended by adding at the end thereof the following new subparagraph:

"(E)(i) The additional premium determined under this subparagraph with respect to any plan for any plan year shall be an amount equal to the amount determined under clause (ii) divided by the number of participants in such plan as of the close of the preceding plan year.

"(ii) The amount determined under this clause for any plan year shall be an amount equal to $6.00 for each $1,000 (or fraction thereof) of unfunded vested benefits under the plan as of the close of the preceding plan year.

"(iii) For purposes of clause (ii)—

"(I) Except as provided in subclause (II), the term 'unfunded vested benefits' means the amount which would be the unfunded current liability (within the meaning of section 302(d)(8)(A)) if only vested benefits were taken into account.

"(II) The interest rate used in valuing vested benefits for purposes of subclause (I) shall be equal to 80 percent of the annual yield on 30-year Treasury securities for the month preceding the month in which the plan year begins.

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"(iv)(I) Except as provided in this clause, the aggregate increase in the premium payable with respect to any participant by reason of this subparagraph shall not exceed $34.

"(II) If an employer made contributions to a plan during 1 or more of the 5 plan years preceding the 1st plan year to which this subparagraph applies in an amount not less than the maximum amount allowable as a deduction with respect to such contributions under section 404 of such Code, the dollar amount in effect under subclause (I) for the 1st 5 plan years to which this subparagraph applies shall be reduced by $3 for each plan year for which such contributions were made in such amount.

(c) LIABILITY FOR PREMIUM.—

(1) IN GENERAL.—Section 4007 of ERISA (29 U.S.C. 1307) is amended by striking out "plan administrator" each place it appears and inserting in lieu thereof "designated payor".

(2) DESIGNATED PAYOR.—Section 4007 of ERISA (29 U.S.C. 1307) is amended by adding at the end thereof the following new subsection:

"(e)(1) For purposes of this section, the term 'designated payor' means—

"(A) the contributing sponsor or plan administrator in the case of a single-employer plan, and

"(B) the plan administrator in the case of a multiemployer plan.

"(2) If the contributing sponsor of any single-employer plan is a member of a controlled group, each member of such group shall be jointly and severally liable for any premiums required to be paid by such contributing sponsor. For purposes of the preceding sentence, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986."

(d) DEPOSIT OF PREMIUMS INTO SEPARATE REVOLVING FUND.—Section 4005 of ERISA (relating to establishment of Pension Benefit Guaranty funds) (29 U.S.C. 1305) is amended by redesignating subsections (f) and (g) as subsections (g) and (h) and by inserting after subsection (e) the following new subsection:

"(f)(1) A seventh fund shall be established and credited with—

"(A) premiums, penalties, and interest charges collected under section 4006(a)(3)(A)(i) (not described in subparagraph (B)) to the extent attributable to the amount of the premium in excess of $8.50,

"(B) premiums, penalties, and interest charges collected under section 4006(a)(3)(E), and

"(C) earnings on investments of the fund or on assets credited to the fund.

"(2) Amounts in the fund shall be available for transfer to other funds established under this section with respect to a single-employer plan but shall not be available to pay—

"(A) administrative costs of the corporation, or

"(B) benefits under any plan which was terminated before October 1, 1988,

unless no other amounts are available for such payment.

"(3) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate."

(e) CONFORMING AMENDMENTS.—Section 4006(c)(1)(A) of ERISA (29 U.S.C. 1306(c)(1)(A)) is amended by striking out "and" at the end of clause (i), by inserting "and before January 1, 1986," after "after December 31, 1977,", and by adding at the end thereof the following new clause: 101 STAT. 1330-369

"(iii) with respect to each plan year beginning after December 31, 1985, and before January 1, 1988, an amount equal to $8.50 for each individual who was a participant in such plan during the plan year, and".

(f) EFFECTIVE DATE.— 29 USC 1305 note.

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 1987.

(2) SEPARATE ACCOUNTING.—The amendments made by subsection (d) shall apply to fiscal years beginning after September 30, 1988.

Subpart D—Miscellaneous Provisions

SEC. 9341. SECURITY REQUIRED UPON ADOPTION OF PLAN AMENDMENT RESULTING IN SIGNIFICANT UNDERFUNDING.

(a) AMENDMENTS TO 1986 CODE.—[99] Subsection (a) of section 401 of the 1986 Code (relating to requirements for qualification) is amended by inserting after paragraph (28) the following new paragraph: [100] 26 USC 401.

[99] Copy read "CODE—".
[100] Copy read "paragraph:—".

"(29) SECURITY REQUIRED UPON ADOPTION OF PLAN AMENDMENT RESULTING IN SIGNIFICANT UNDERFUNDING.—

"(A) IN GENERAL.—If—

"(i) a defined benefit plan (other than a multiemployer plan) adopts an amendment an effect of which is to increase current liability under the plan for a plan year, and

"(ii) the funded current liability percentage of the plan for the plan year in which the amendment takes effect is less than 60 percent, including the amount of the unfunded current liability under the plan attributable to the plan amendment,

the trust of which such plan is a part shall not constitute a qualified trust under this subsection unless such amendment does not take effect until the contributing sponsor (or any member of the controlled group of the contributing sponsor) provides security to the plan.

"(B) FORM OF SECURITY.—The security required under subparagraph (A) shall consist of—

"(i) a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of the Employee Retirement Income Security Act of 1974,

"(ii) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution, or

"(iii) such other form of security as is satisfactory to the Secretary and the parties involved.

"(C) AMOUNT OF SECURITY.—The security shall be in an amount equal to the excess of—

"(i) the lesser of—

"(I) the amount of additional plan assets which would be necessary to increase the funded current liability percentage under the plan to 60 percent, including the amount of the unfunded current liability under the plan attributable to the plan amendment, or

"(II) the amount of the increase in current liability under the plan attributable to the plan amendment, over

"(ii) $10,000,000.

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"(D) RELEASE OF SECURITY.—The security shall be released (and any amounts thereunder shall be refunded together with any interest accrued thereon) at the end of the first plan year which ends after the provision of the security and for which the funded current liability percentage under the plan is not less than 60 percent. The Secretary may prescribe regulations for partial releases of the security by reason of increases in the funded current liability percentage.

Regulations.

"(E) DEFINITIONS.—For purposes of this paragraph, the terms 'current liability', 'funded current liability percentage', and 'unfunded current liability' shall have the meanings given such terms by section 412(l), except that in computing unfunded current liability there shall not be taken into account any unamortized portion of the unfunded old liability amount as of the close of the plan year."

(b) AMENDMENTS TO ERISA.—Part 3 of subtitle B of title I of ERISA (29 U.S.C. 1081 et seq.) is amended—

29 USC 1086.

(1) by redesignating section 307 as section 308; and

(2) by inserting after section 306 the following new section:

"SECURITY REQUIRED UPON ADOPTION OF PLAN AMENDMENT RESULTING IN SIGNIFICANT UNDERFUNDING

29 USC 1085b.

"SEC. 307. (a) IN GENERAL.—If—

"(1) a defined benefit plan (other than a multiemployer plan) adopts an amendment an effect of which is to increase current liability under the plan for a plan year, and

"(2) the funded current liability percentage of the plan for the plan year in which the amendment takes effect is less than 60 percent, including the amount of the unfunded current liability under the plan attributable to the plan amendment,

the contributing sponsor (or any member of the controlled group of the contributing sponsor) shall provide security to the plan.

"(b) FORM OF SECURITY.—The security required under subsection (a) shall consist of—

"(1) a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412,

"(2) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution, or

"(3) such other form of security as is satisfactory to the Secretary of the Treasury and the parties involved.

"(c) AMOUNT OF SECURITY.—The security shall be in an amount equal to the excess of—

"(1) the lesser of—

"(A) the amount of additional plan assets which would be necessary to increase the funded current liability percentage under the plan to 60 percent, including the amount of the unfunded current liability under the plan attributable to the plan amendment, or

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"(B) the amount of the increase in current liability under the plan attributable to the plan amendment, over

"(2) $10,000,000.

"(d) RELEASE OF SECURITY.—The security shall be released (and any amounts thereunder shall be refunded together with any interest accrued thereon) at the end of the first plan year which ends after the provision of the security and for which the funded current liability percentage under the plan is not less than 60 percent. The Secretary may prescribe regulations for partial releases of the security by reason of increases in the funded current liability percentage.

Regulations.

"(e) DEFINITIONS.—For purposes of this section, the terms 'current liability', 'funded current liability percentage', and 'unfunded current liability' shall have the meanings given such terms by section 302(d), except that in computing unfunded current liability there shall not be taken into account any unamortized portion of the unfunded old liability amount as of the close of the plan year."

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of ERISA (29 U.S.C. 1001 note) is amended by striking out the item relating to section 307 and inserting in lieu thereof the following new items:

"Sec. 307. Security required upon adoption of plan amendment resulting in significant underfunding.

"Sec. 308. Effective dates."

(c) EFFECTIVE DATE.—

26 USC 401 note.

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to plan amendments adopted after the date of the enactment of this Act.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan amendments adopted pursuant to collective bargaining agreements ratified before the date of enactment.

SEC. 9342. REPORTING REQUIREMENTS.

(a) FUNDED PERCENTAGE REQUIRED TO BE SHOWN IN ANNUAL REPORT.—

(1) Subsection (d) of section 103 of ERISA (29 U.S.C. 1023(d)) is amended by redesignating paragraphs (11) and (12) as paragraphs (12) and (13), respectively, and by inserting after paragraph (10) the following new paragraph:

"(11) If the current value of the assets of the plan is less than 60 percent of the current liability under the plan (within the meaning of section 302(d)(7)), such percentage."

(2) Paragraph (3) of section 104(b) of ERISA (29 U.S.C. 1024(b)(3)) is amended by striking out "such other material" and inserting in lieu thereof "such other material (including the percentage determined under section 103(d)(11))".

(b) AMENDMENT OF STATUTE OF LIMITATIONS WITH RESPECT TO CERTAIN REPORTS.—Section 413(a)(2) of ERISA (29 U.S.C. 1113(a)(2)) is amended by striking "(A)" and by striking "or (B)" and all that follows through "title".

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(c) PENALTY FOR FAILURE TO PROVIDE ANNUAL REPORT IN COMPLETE FORM.—Section 502(c) of ERISA (29 U.S.C. 1132(c)) is amended—

(1) by inserting "(1)" after "(c)", and by striking "(1) who" and "(2) who" and inserting "(A) who" and "(B) who", respectively; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may assess a civil penalty of up to $1,000 a day from the date of a plan administrator's failure or refusal to file the annual report required to be filed with the Secretary under section 101(b)(4). For purposes of this paragraph, an annual report that has been rejected under section 104(a)(4) for failure to provide material information shall not be treated as having been filed with the Secretary.".

29 USC 1132 note. Reports.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to reports required to be filed after December 31, 1987.

(2) REGULATIONS.—The Secretary of Labor shall issue the regulations required to carry out the amendments made by subsection (c) not later than January 1, 1989.

SEC. 9343. COORDINATION OF PROVISIONS OF THE INTERNAL REVENUE CODE OF 1986 WITH PROVISIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.[101]

26 USC 401 note.

(a) INTERPRETATION OF INTERNAL REVENUE CODE.—Except to the extent specifically provided in the Internal Revenue Code of 1986 or as determined by the Secretary of the Treasury, titles I and IV of the Employee Retirement Income Security Act of 1974 are not applicable in interpreting such Code.

(b) CLARIFICATION REGARDING EFFECT OF DETERMINATION LETTER BY THE INTERNAL REVENUE SERVICE ON ENFORCEMENT BY THE DEPARTMENT OF LABOR OF FIDUCIARY STANDARDS UNDER[102] ERISA.—Section 3001(d) of ERISA (29 U.S.C. 1201(d)) is amended by adding after the second sentence the following: "The determination of the Secretary of the Treasury shall not be prima facie evidence on issues relating solely to part 4 of subtitle B of title I.".

(c) CLARIFICATION REGARDING RETURNS OF CONTRIBUTIONS UPON RECEIPT OF ADVERSE DETERMINATION LETTERS.—

(1) IN GENERAL.—Subparagraph (B) of section 403(c)(2) of ERISA (29 U.S.C. 1103(c)(2)(B)) is amended to read as follows:

"(B) If a contribution is conditioned on initial qualification of the plan under section 401 or 403(a) of the Internal Revenue Code of 1986, and if the plan receives an adverse determination with respect

[101] Copy read "1974".
[102] Copy read "UNDER".

to its initial qualification, then paragraph (1) shall not prohibit the return of such contribution to the employer within one year after such determination, but only if the application for the determination is made by the time prescribed by law for filing the employer's return for the taxable year in which such plan was adopted, or such later date as the Secretary of the Treasury may prescribe.".

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 403(c) of ERISA (29 U.S.C. 1103(c)(3)) is amended by striking out "4972(b) of the Internal Revenue Code of 1954" and inserting in lieu thereof "4979(c) of the Internal Revenue Code of 1986" 101 STAT. 1330-373

SEC. 9344. CLARIFICATION REGARDING THE IMPOSITION OF AN ANNUAL SANCTION FOR PROHIBITED TRANSACTIONS WHICH ARE CONTINUING IN NATURE.

Section 502(i) of ERISA (29 U.S.C. 1132(i)) is amended by striking the second sentence and inserting the following: "The amount of such penalty may not exceed 5 percent of the amount involved in each such transaction (as defined in section 4975(f)(4) of the Internal Revenue Code of 1986) for each year or part thereof during which the prohibited transaction continues, except that, if the transaction is not corrected (in such manner as the Secretary shall prescribe [103] in regulations which shall be consistent with section 4975(f)(5) of such Code) within 90 days after notice from the Secretary (or such longer period as the Secretary may permit), such penalty may be in an amount not more than 100 percent of the amount involved.". Regulations.

SEC. 9345. ADDITIONAL LIMITATIONS ON INVESTMENT BY AN INDIVIDUAL ACCOUNT PLAN FORMING PART OF A FLOOR-OFFSET ARRANGEMENT AND ON INVESTMENT BY AN INDIVIDUAL ACCOUNT PLAN IN EMPLOYER STOCK.

(a) TREATMENT OF INDIVIDUAL ACCOUNT PORTIONS OF FLOOR-OFFSET ARRANGEMENTS.—

(1) IN GENERAL.—Section 407(d)(3) of ERISA (29 U.S.C. 1107(d)(3)) is amended by adding at the end the following new subparagraph:

"(C) The term 'eligible individual account plan' does not include any individual account plan the benefits of which are taken into account in determining the benefits payable to a participant under any defined benefit plan."

(2) TREATMENT OF FLOOR-OFFSET ARRANGEMENT AS SINGLE PLAN.—Section 407(d) of ERISA (29 U.S.C. 1107(d)) is amended by adding at the end the following new paragraph:

"(9) For purposes of this section, an arrangement which consists of a defined benefit plan and an individual account plan shall be treated as 1 plan if the benefits of such arrangement are taken into account in determining the benefits payable under such defined benefit plan."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to arrangements established after December 17, 1987. 29 USC 1107 note.

(b) RESTRICTIONS ON TREATMENT OF STOCK AS QUALIFYING EMPLOYER SECURITY.—Section 407 of ERISA (29 U.S.C. 1107) is amended—

(1) in subsection (d)(5), by adding at the end the following new sentence: "After December 17, 1987, in the case of a plan other than an eligible individual account plan, stock shall be considered a qualifying employer security only if such stock satisfies the requirements of subsection (f)(1).''; and

(2) by adding at the end the following new subsection:

"(f)(1) Stock satisfies the requirements of this subsection if—

"(A) no more than 25 percent of the aggregate amount of stock of the same class issued and outstanding at the time of acquisition is held by the plan, and

"(B) at least 50 percent of the aggregate amount referred to in subparagraph (A) is held by persons independent of the issuer.

[103] Copy read "presribe".

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"(2) Until January 1, 1993, a plan shall not be treated as violating subsection (a) solely by holding stock which fails to satisfy the requirements of paragraph (1) if such stock—

"(A) has been so held since December 17, 1987, or

Contracts.

"(B) was acquired after December 17, 1987, pursuant to a legally binding contract in effect on December 17, 1987, and has been so held at all times after the acquisition.

Contracts.

"(3) After December 17, 1987, no plan may acquire stock which does not satisfy the requirements of paragraph (1) unless the acquisition is made pursuant to a legally binding contract in effect on such date.".

SEC. 9346. INTEREST RATE ON ACCUMULATED CONTRIBUTIONS.

(a) AMENDMENTS TO ERISA.—Section 204(c)(2) of ERISA (29 U.S.C. 1054(c)(2)) is amended—

(1) in subparagraph (C)(iii), by striking "5 percent per annum" and inserting "120 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of a plan year)"; and

(2) in subparagraph (D)—

(A) in the first sentence, by striking ", the rate of interest described in clause (iii) of subparagraph (C), or both,"; and

(B) by striking the second sentence.

26 USC 411.

(b) AMENDMENTS TO 1986 CODE.—Section 411(c)(2) of the 1986 Code (relating to accrued benefit derived from employee contributions) is amended—

(1) in subparagraph (C)(iii), by striking "5 percent per annum" and inserting "120 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of a plan year)"; and

(2) in subparagraph (D)—

(A) in the first sentence, by striking ", the rate of interest described in clause (iii) of subparagraph (C), or both,"; and

(B) by striking the second sentence.

29 USC 1054 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 1987.

(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989.—If any amendment made by this section requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1989, if—

(A) during the period after such amendments made by this section take effect and before such first plan year, the plan is operated in accordance with the requirements of such amendments or in accordance with an amendment prescribed by the Secretary of the Treasury and adopted by the plan, and

(B) such plan amendment applies retroactively to the period after such amendments take effect and such first plan year.

A plan shall not be treated as failing to provide definitely determinable benefits or contributions, or to be operated in accordance with the provisions of the plan, merely because it operates in accordance with this subsection.

101 STAT. 1330-375

Subtitle E—Miscellaneous Provisions

SEC. 9401. RESTORATION OF TRUST FUNDS FOR 1987.

(a) IN GENERAL.—

(1) OBLIGATIONS ISSUED.—Except as provided in subsection (b), within 30 days after the expiration of any debt issuance suspension period to which this section applies, the Secretary of the Treasury shall issue to each Federal fund obligations under

chapter 31 of title 31, United States Code, which bear such issue dates, interest rates, and maturity dates as are necessary to ensure that, after such obligations are issued, the holdings of such Federal fund will replicate to the maximum extent practicable the obligations that would have been held by such Federal fund if any—

(A) failure to invest amounts in such Federal fund (or any disinvestment) resulting from the limitation of section 3101(b) of title 31, United States Code, had not occurred, and

(B) issuance of such obligations had occurred immediately on the expiration of the debt issuance suspension period.

(2) INTEREST CREDITED.—On the first normal interest payment date or within 30 days after the expiration of any debt issuance suspension period (whichever is later) to which this section applies, the Secretary of the Treasury shall credit to each Federal fund an amount determined by the Secretary, after taking into account the actions taken pursuant to paragraph (1), to be equal to the income lost by such Federal fund by reason of any failure to invest amounts in such Federal fund (or any disinvestment) resulting from the limitation of such section 3101(b), including any income lost between the expiration of the debt issuance suspension period and the date of the credit.

(b) INTEREST ON MARKET-BASED OBLIGATIONS.—With respect to any Federal fund which invests in market-based special obligations, on the expiration of a debt issuance suspension period to which this section applies, the Secretary of the Treasury shall immediately credit to such fund an amount equal to the interest that would have been earned by such fund during the debt issuance suspension period if the daily balance in such fund that the Secretary was unable to invest by reason of the limitation of such section 3101(b) had been invested each day during such period, overnight, in obligations under chapter 31 of title 31, United States Code, earning interest at a rate determined by the Secretary in accordance with the standard practice of the Department of the Treasury.

(c) INTEREST ON STATE AND LOCAL GOVERNMENT SERIES.—On the expiration of any debt issuance suspension period to which this section applies, the Secretary of the Treasury shall (as of the close of such period) credit to each holder of any obligation which is part of the State and Local Government Series and which is in the nature of a demand deposit an amount equal to the income lost by such holder by reason of not being able to reinvest the principal of, and interest on, such obligation during such period.

(d) DEBT ISSUANCE SUSPENSION PERIODS TO WHICH SECTION APPLIES.—This section shall apply to debt issuance suspension periods beginning on or after July 18, 1987, and ending before January 1, 1988.

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(e) CREDITED AMOUNTS TREATED AS INTEREST.—[104] All amounts credited under this section shall be treated as interest on obligations issued under chapter 31 of title 31, United States Code, for all purposes of Federal law.

(f) DEFINITIONS.—For purposes of this section—

(1) DEBT ISSUANCE SUSPENSION PERIOD.—The term "debt issuance suspension period" means any period for which the Secretary of the Treasury determines that the issuance of obligations of the United States sufficient to conduct the orderly financial operations of the United States may not be made without exceeding the limitation imposed by section 3101(b) of title 31, United States Code.

[104] Copy read "AMOUNTS TREATED AS INTEREST.—".

(2) FEDERAL FUND.—The term "Federal fund" means any Federal trust fund or Government account established pursuant to Federal law to which the Secretary of the Treasury has issued or is expressly authorized by law directly to issue obligations under chapter 31 of title 31, United States Code, in respect of public money, money otherwise required to be deposited in the Treasury, or amounts appropriated; except that such term shall not include the Civil Service Retirement and Disability Fund or the Thrift Savings Fund of the Federal Employees' Retirement System.

(g) SPECIAL RULES.—In the case of any debt suspension period beginning on or after July 18, 1987, and ending before the date of the enactment of this Act—

(1) for purposes of determining the date on which the Secretary of the Treasury is required to take the actions described in subsections (a), (b), and (c), such period shall be treated as having ended on such date of enactment, and

(2) the amount required to be credited under subsection (c) shall include any income lost because the credit was not made upon the expiration of such period.

SEC. 9402. 6-MONTH EXTENSION OF PROVISIONS RELATING TO COLLECTION OF NON-TAX DEBTS OWED TO FEDERAL AGENCIES.

26 USC 6402 note.

(a) GENERAL RULE.—Subsection (c) of section 2653 of the Deficit Reduction Act of 1984 is amended by striking out "January 1, 1988" and inserting in lieu thereof "July 1, 1988".

26 USC 6402 note.

(b) CLARIFICATION OF CONGRESSIONAL INTENT AS TO SCOPE OF PROVISION.—

(1) Nothing in the amendments made by section 2653 of the Deficit Reduction Act of 1984 shall be construed as exempting debts of corporations or any other category of persons from the application of such amendments.

(2) It is the intent of the Congress that, to the extent practicable, the amendments made by section 2653 of the Deficit Reduction Act of 1984 shall extend to all Federal agencies (as defined in the amendments made by such section).

Regulations.

(3) The Secretary of the Treasury shall issue regulations to carry out the purposes of this subsection.

26 USC 6402 note.

(c) STUDY BY THE GENERAL ACCOUNTING OFFICE.—The Comptroller General of the United States, in consultation with the Secretary of the Treasury or his delegate, shall conduct a study of the operation and effectiveness of the amendments made by section 2653 of the Deficit Reduction Act of 1984. The study shall compile and evaluate information on the effect of those amendments on voluntary compliance with the income tax laws. Not later than April 1, 1989, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report of the study conducted under this subsection, together with such recommendations as he may deem advisable.

101 STAT. 1330-377

Reports.

SEC. 9403. INCREASE IN LIMIT ON LONG-TERM BONDS.

The last sentence of section 3102(a) of title 31, United States Code, is amended by striking out "$250,000,000,000" and inserting in lieu thereof "$270,000,000,000".

Subtitle F—Customs User Fees; Trade and Customs Agency Authorizations

SEC. 9501. CUSTOMS USER FEES.

(a) AMENDMENTS TO CUSTOMS USER FEES PROGRAM.—Section 13031 of the Consolidated Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended as follows:

(1) MERCHANDISE PROCESSING FEE IMPOSED ON FOREIGN CONTENT OF CERTAIN SCHEDULE 8 ARTICLES.—

(A) Subsection (a)(9)(A) is amended to read as follows:

"(A) provided for under any item in schedule 8 of the Tariff Schedules of the United States except item 806.30 or 807.00,".

(B) Subsection (b)(8)(A) is amended—

(i) by striking out "and" at the end of clause (i);

(ii) by striking out the period at the end of clause (ii) and inserting a semicolon; and

(iii) by adding at the end thereof the following:

"(iii) in the case of merchandise classified under item 806.30 of the Tariff Schedules of the United States, be applied to the value of the foreign repairs or alterations to the merchandise; and

"(iv) in the case of merchandise classified under item 807.00 of such Schedules, be applied to the full value of the merchandise, less the cost or value of the component United States products.

With respect to merchandise that is classified under item 806.30 or 807.00 of such Schedules and is duty-free, the Secretary may collect the fee charged on the processing of the merchandise under subsection (a) (9) or (10) on the basis of aggregate data derived from financial and manufacturing reports used by the importer in the normal course of business, rather than on the basis of entry-by-entry accounting.".

(2) PROVISION OF CUSTOMS SERVICES.—Subsection (e) is amended—

(A) by redesignating paragraph (4) as paragraph (6);

(B) by inserting after paragraph (3) the following new paragraphs:

"(4) Notwithstanding any other provision of law, all customs services (including, but not limited to, normal and overtime clearance and preclearance services) shall be adequately provided, when requested, for—

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"(A) the clearance of any commercial vessel, vehicle, or aircraft or its passengers, crew, stores, material, or cargo arriving, departing, or transiting the United States;

"(B) the preclearance at any customs facility outside the United States of any commercial vessel, vehicle or aircraft or its passengers, crew, stores, material, or cargo; and

"(C) the inspection or release of commercial cargo or other commercial shipments being entered into, or withdrawn from, the customs territory of the United States.

"(5) For purposes of this subsection, customs services shall be treated as being 'adequately provided' if such of those services that are necessary to meet the needs of parties subject to customs inspection are provided in a timely manner taking into account factors such as—

"(A) the unavoidability of weather, mechanical, and other delays;

"(B) the necessity for prompt and efficient passenger and baggage clearance;

"(C) the perishability of cargo;

"(D) the desirability or unavoidability of late night and early morning arrivals from various time zones;

"(E) the availability (in accordance with regulations prescribed under subsection (g)(2)) of customs personnel and resources; and

"(F) the need for specific enforcement checks."; and

(C) by amending paragraph (6) (as redesignated by subparagraph (A)) to read as follows:

"(6) Notwithstanding any other provision of law except paragraph (2), during any period when fees are authorized under subsection (a), no charges, other than such fees, may be collected—

"(A) for any—

"(i) cargo inspection, clearance, or other customs activity, expense, or service performed (regardless whether performed outside of normal business hours on an overtime basis), or

"(ii) customs personnel provided,

in connection with the arrival or departure of any commercial vessel, vehicle, or aircraft, or its passengers, crew, stores, material, or cargo, in the United States;

"(B) for any preclearance or other customs activity, expense, or service performed, and any customs personnel provided, outside the United States in connection with the departure of any commercial vessel, vehicle, or aircraft, or its passengers, crew, stores, material, or cargo, for the United States; or

"(C) in connection with—

"(i) the activation or operation (including Customs Service supervision) of any foreign trade zone or subzone established under the Act of June 18, 1934 (commonly know as the Foreign Trade Zones Act, 19 U.S.C. 81a et seq.), or

"(ii) the designation or operation (including Customs Service supervision) of any bonded warehouse under section 555 of the Tariff Act of 1930 (19 U.S.C. 1555).".

(3) DISPOSITION OF FEES.—Subsection (f) is amended by striking out paragraphs (1), (2), and (3) and inserting the following:

"(f) DISPOSITION OF FEES.—(1) There is established in the general fund of the Treasury a separate account which shall be known as the 'Customs User Fee Account'. Notwithstanding section 524 of the Tariff Act of 1930 (19 U.S.C. 1524), there shall be deposited as
101 STAT. 1330-379 offsetting receipts into the Customs User Fee Account all fees collected under subsection (a) except that portion of such fees that is required under paragraph (3) for the direct reimbursement of appropriations.

"(2) All funds in the Customs User Fee Account shall be available, to the extent provided for in appropriations Acts, to pay the costs (other than costs for which direct reimbursement under paragraph (3) is required) incurred by the United States Customs Service in conducting commercial operations, including, but not limited to, all costs associated with commercial passenger, vessel, vehicle, aircraft, and cargo processing. So long as there is a surplus of funds in the Customs User Fee Account, the Secretary of the Treasury may not reduce personnel staffing levels for providing commercial clearance and preclearance services.

"(3) The Secretary of the Treasury, in accordance with such section 524 and without regard to apportionment or any other administrative practice or limitation, shall directly reimburse, from the fees collected under subsection (a), each appropriation for the amount paid out of that appropriation for the costs incurred by the Secretary in providing—

"(A) inspectional overtime services; and

"(B) all preclearance services;

for which the recipients of such services are not required to reimburse the Secretary of the Treasury. Reimbursement under this paragraph shall apply with respect to each fiscal year occurring after September 30, 1987, and shall be made at least quarterly. To the extent necessary, reimbursement of appropriations under this paragraph may be made on the basis of estimates made by the Secretary of the Treasury of the costs for inspectional overtime and preclearance services, and adjustments shall be made in subsequent reimbursements to the extent that the estimates were in excess of, or less than, the amounts required to be reimbursed.".

(4) REGULATIONS.—Subsection (g) is amended—

(A) by striking out "(g) REGULATIONS.—The" and inserting "(g) REGULATIONS.—(1) In addition to the regulations required under paragraph (2), the "; and

(B) by inserting at the end thereof the following new paragraph:

"(2) The Secretary of the Treasury shall prescribe regulations governing the work shifts of customs personnel at airports. Such

regulations shall provide, among such other factors considered appropriate by the Secretary, that—

"(A) the work shifts will be adjusted, as necessary, to meet cyclical and seasonal demands and to minimize the use of overtime;

"(B) the work shifts will not be arbitrarily reduced or compressed; and

"(C) consultation with the Advisory Committee on Commercial Operations of the United States Customs Service (established under section 9501(c) of the Omnibus Budget Reconciliation Act of 1987) will be carried out before adjustments are made in the work shifts.".

(5) EXTENSION OF CUSTOMS USER FEES PROGRAM.—Subsection (j)(3) is amended by striking out "1989" and inserting "1990".

(b) ADDITIONAL PERIOD TO CLAIM CERTAIN REFUNDS.—Section 1893(g)(2) of the Tax Reform Act of 1986 is amended by striking out "90 days after the date of enactment of this Act" and inserting "90 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1987". 19 USC 58c note.

101 STAT. 1330-380

(c) ANALYSIS REGARDING THE CES PROGRAM; EFFECT ON IMPLEMENTATION OF PROGRAM.— 19 USC 3 note.

(1) The Comptroller General of the United States shall conduct a comprehensive analysis, including a cost-benefit study, of the centralized cargo examination station (CES) concept from the perspective of both the United States Customs Service and business community users. The analysis shall be submitted on the same day to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (hereinafter in this subsection referred to as the "Committees") not later than March 30, 1988, and shall include recommendations as to how best to implement cargo inspection procedures.

(2) The United States Customs Service—

(A) may not, after the date of the enactment of this Act, establish any new centralized cargo examination station at any ocean port, airport, or land border location unless the Customs Service provides to the Committees advance notice, in writing, of not less than 90 days regarding the proposed establishment; and

(B) shall, on such date of enactment, suspend operations at each centralized cargo examination station that was operating at an airport on the day before such date until the 90th day after a date—

(i) that is not earlier than the date on which the analysis required under paragraph (1) is submitted to the Committees, and

(ii) on which the Customs Service provides to the Committees notice, in writing, that it intends to resume such operations at the station.

During the period of suspension of operations under subparagraph (B) at any centralized cargo examination station at an airport, the Secretary of the Treasury shall maintain customs operations and staffing at that airport at a level not less than that which was in effect immediately before the suspension took effect.

(d) EFFECTIVE DATES.— 19 USC 58c note.

(1) Except as otherwise provided in this subsection, the provisions of this section take effect on the date of the enactment of this Act.

(2) The amendments made by subsection (a)(1) apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

(3) The amendment made by subsection (a)(3) shall take effect on October 1, 1987.

SEC. 9502. UNITED STATES INTERNATIONAL TRADE COMMISSION AUTHORIZATIONS.

Section 330(e)(2) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended—

(1) by striking out "1986" and inserting "1988"; and

(2) by striking out "$28,901,000;" and inserting "$35,386,000;".

SEC. 9503. UNITED STATES CUSTOMS SERVICE AUTHORIZATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended to read as follows:

101 STAT. 1330-381 "(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FOR NONCOMMERCIAL OPERATIONS.—There are authorized to be appropriated for fiscal year 1988 not to exceed $348,192,000 for the salaries and expenses of the United States Customs Service that are incurred in noncommercial operations, of which $171,857.06 shall be available only for concluding Contract TC-82-54 that was awarded for the development and testing of an automatic license plate reader.

"(2) FOR COMMERCIAL OPERATIONS.—There are authorized to be appropriated for fiscal year 1988 not to exceed $615,000,000 from the Customs User Fee Account for the salaries and expenses of the United States Customs Service that are incurred in commercial operations.

"(3) FOR AIR INTERDICTION.—There are authorized to be appropriated for fiscal year 1988 not to exceed $118,309,000 for the operation (including salaries and expenses) and maintenance of the air interdiction program of the United States Customs Service.".

(b) CONGRESSIONAL NOTICE OF CERTAIN ACTIONS.—Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended—

(1) by striking out "USE OF SAVINGS RESULTING FROM ADMINISTRATIVE CONSOLIDATIONS.—" in subsection (f);

(2) by striking out "ALLOCATION OF RESOURCES.—" in subsection (g) and inserting "(1)"; and

(3) by adding at the end of subsection (g) the following new paragraph:

"(2) The Commissioner of Customs shall notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives at least 180 days prior to taking any action which would—

"(A) result in any significant reduction in force of employees other than by means of attrition;

"(B) result in any significant reduction in hours of operation or services rendered at any office of the United States Customs Service or any port of entry;

"(C) eliminate or relocate any office of the United States Customs Service;

"(D) eliminate any port of entry; or

"(E) significantly reduce the number of employees assigned to any office of the United States Customs Service or any port of entry.".

Establishment. 19 USC 2071 note.

(c) ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS OF THE UNITED STATES CUSTOMS SERVICE.—

(1) The Secretary of the Treasury shall establish an advisory committee which shall be known as the "Advisory Committee on Commercial Operations of the United States Customs Service" (hereafter in this subsection referred to as the "Advisory Committee").

(2)(A) The Advisory Committee shall consist of 20 members appointed by the Secretary of the Treasury.

(B) In making appointments under subparagraph (A), the Secretary of the Treasury shall ensure that—

(i) the membership of the Advisory Committee is representative of the individuals and firms affected by the commercial operations of the United States Customs Service; and

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(ii) a majority of the members of the Advisory Committee do not belong to the same political party.

(3) The Advisory Committee shall—

(A) provide advice to the Secretary of the Treasury on all matters involving the commercial operations of the United States Customs Service; and

(B) submit an annual report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives that shall— Reports.

(i) describe the operations of the Advisory Committee during the preceding year, and

(ii) set forth any recommendations of the Advisory Committee regarding the commercial operations of the United States Customs Service.

(4) The Assistant Secretary of the Treasury for Enforcement shall preside over meetings of the Advisory Committee.

(d) DISSOLUTION OF EXISTING ADVISORY COMMITTEE.—Section 13033 of the Consolidated Budget Reconciliation Act of 1985 is repealed. 19 USC 2071 note.

SEC. 9504. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE AUTHORIZATIONS.

Section 141(f)(1) of the Trade Act of 1974 (19 U.S.C. 2171(f)(1)) is amended to read as follows:

"(f)(1)(A) There are authorized to be appropriated for fiscal year 1988 to the Office for the purposes of carrying out its functions not to exceed $15,172,000.

"(B) Of the amounts authorized to be appropriated under subparagraph (A) for fiscal year 1988—

"(i) not to exceed $69,000 may be used for entertainment and representation expenses of the Office; and

"(ii) not to exceed $1,000,000 shall remain available until expended.".

TITLE X—REVENUE PROVISIONS

Revenue Act of 1987.

SEC. 10000. SHORT TITLE; AMENDMENT OF THE 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Revenue Act of 1987". 26 USC 1 note.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986. 26 USC 1 *et seq.*

(c) COORDINATION WITH SECTION 15.—No amendment made by this title shall be treated as a change in a rate of tax for purposes section 15 of the Internal Revenue Code of 1986. 26 USC 15 note.

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SEC. 10101. EXPENSES OF OVERNIGHT CAMPS NOT ALLOWABLE FOR DEPENDENT CARE CREDIT.

(a) GENERAL RULE.—Subparagraph (A) of section 21(b)(2) (defining employment-related expenses) is amended by adding at the end thereof the following new sentence:

"Such term shall not include any amount paid for services outside the taxpayer's household at a camp where the qualifying individual stays overnight."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses paid in taxable years beginning after December 31, 1987. 26 USC 21 note.

SEC. 10102. CHANGES TO DEDUCTION FOR QUALIFIED RESIDENCE INTEREST.

(a) GENERAL RULE.—Paragraph (3) of section 163(h) (defining qualified residence interest) is amended to read as follows: 101 STAT. 1330-385

"(3) QUALIFIED RESIDENCE INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified residence interest' means any interest which is paid or accrued during the taxable year on—

"(i) acquisition indebtedness with respect to any qualified residence of the taxpayer, or

"(ii) home equity indebtedness with respect to any qualified residence of the taxpayer.

For purposes of the preceding sentence, the determination of whether any property is a qualified residence of the taxpayer shall be made as of the time the interest is accrued.

"(B) ACQUISITION INDEBTEDNESS.—

"(i) IN GENERAL.—The term 'acquisition indebtedness' means any indebtedness which—

[105] Copy read "Indian Tribal Governments.".

"(I) is incurred in acquiring, constructing, or substantially improving any qualified residence of the taxpayer, and

"(II) is secured by such residence.

Such term also includes any indebtedness secured by such residence resulting from the refinancing of indebtedness meeting the requirements of the preceding sentence (or this sentence); but only to the extent the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness.

"(ii) $1,000,000 LIMITATION.—The aggregate amount treated as acquisition indebtedness for any period shall not exceed $1,000,000 ($500,000 in the case of a married individual filing a separate return).

"(C) HOME EQUITY INDEBTEDNESS.—

"(i) IN GENERAL.—The term 'home equity indebtedness' means any indebtedness (other than acquisition indebtedness) secured by a qualified residence to the extent the aggregate amount of such indebtedness does not exceed—

"(I) the fair market value of such qualified residence, reduced by

"(II) the amount of acquisition indebtedness with respect to such residence.

"(ii) LIMITATION.—The aggregate amount treated as home equity indebtedness for any period shall not exceed $100,000 ($50,000 in the case of a separate return by a married individual).

"(D) TREATMENT OF INDEBTEDNESS INCURRED ON OR BEFORE OCTOBER 13, 1987.—

"(i) IN GENERAL.—In the case of any pre-October 13, 1987, indebtedness—

"(I) such indebtedness shall be treated as acquisition indebtedness, and

"(II) the limitation of subparagraph (B)(ii) shall not apply.

"(ii) REDUCTION IN $1,000,000 LIMITATION.—The limitation of subparagraph (B)(ii) shall be reduced (but not below zero) by the aggregate amount of outstanding pre-October 13, 1987, indebtedness.

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"(iii) PRE-OCTOBER 13, 1987, INDEBTEDNESS.—The term 'pre-October 13, 1987, indebtedness' means—

"(I) any indebtedness which was incurred on or before October 13, 1987, and which was secured by a qualified residence on October 13, 1987, and at all times thereafter before the interest is paid or accrued, or

"(II) any indebtedness which is secured by the qualified residence and was incurred after October 13, 1987, to refinance indebtedness described in subclause (I) (or refinanced indebtedness meeting the requirements of this subclause) to the extent (immediately after the refinancing) the principal amount of the indebtedness resulting from the refinancing does not exceed the principal amount of the refinanced indebtedness (immediately before the refinancing).

"(iv) LIMITATION ON PERIOD OF REFINANCING.—Subclause (II) of clause (iii) shall not apply to any indebtedness after—

"(I) the expiration of the term of the indebtedness described in clause (iii)(I), or

"(II) if the principal of the indebtedness described in clause (iii)(I) is not amortized over its term, the expiration of the term of the 1st refinancing of such indebtedness (or if earlier, the date which is 30 years after the date of such 1st refinancing)."

(b) CONFORMING AMENDMENTS.—Subsection (h) of section 163 is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987. 26 USC 163 note.

SEC. 10103. CLARIFICATION OF TREATMENT OF FEDERAL JUDGES. 26 USC 219 note.

(a) GENERAL RULE.—A Federal judge—

(1) shall be treated as an active participant for purposes of section 219(g) of the Internal Revenue Code of 1986, and

(2) shall be treated as an employee for purposes of chapter 1 of such Code.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to taxable years beginning after December 31, 1987.

SEC. 10104. TREATMENT OF REGULATED INVESTMENT COMPANIES UNDER 2-PERCENT FLOOR.

(a) 1-YEAR DELAY IN TREATMENT OF PUBLICLY OFFERED REGULATED INVESTMENT COMPANIES UNDER 2-PERCENT FLOOR.— 26 USC 67 note.

(1) GENERAL RULE.—Section 67(c) of the Internal Revenue Code of 1986 to the extent it relates to indirect deductions through a publicly offered regulated investment company shall apply only to taxable years beginning after December 31, 1987.

(2) PUBLICLY OFFERED REGULATED INVESTMENT COMPANY DEFINED.—For purposes of this subsection—

(A) IN GENERAL.—The term "publicly offered regulated investment company" means a regulated investment company the shares of which are—

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(i) continuously offered pursuant to a public offering (within the meaning of section 4 of the Securities Act of 1933, as amended (15 U.S.C. 77a to 77aa)),

(ii) regularly traded on an established securities market, or

(iii) held by or for no fewer than 500 persons at all times during the taxable year.

(B) SECRETARY MAY REDUCE 500 PERSON REQUIREMENT.—The Secretary of the Treasury or his delegate may by regulation decrease the minimum shareholder requirement of subparagraph (A)(iii) in the case of regulated investment companies which experience a loss of shareholders through net redemptions of their shares. Regulations.

(b) CHANGES IN DISTRIBUTION REQUIREMENTS.—

(1) INCREASE IN REQUIRED DISTRIBUTION OF INCOME.—Paragraph (1) of section 4982(b) (defining required distribution) is amended by striking out "90 percent" in subparagraph (B) and inserting in lieu thereof "98 percent".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 651 of the Tax Reform Act of 1986. 26 USC 4982 note.

Subtitle B—Business Provisions

PART I—ACCOUNTING PROVISIONS

SEC. 10201. REPEAL OF RESERVE FOR ACCRUAL OF VACATION PAY.

(a) GENERAL RULE.—Section 463 (relating to accrual of vacation pay) is hereby repealed.

(b) TECHNICAL AMENDMENTS.—

(1) Section 81 is hereby repealed.

(2) Subparagraph (B) of section 404(b)(2) is amended to read as follows:

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any benefit provided through a welfare benefit fund (as defined in section 419(e))."

(3) Section 404(a)(5) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any vacation pay which is treated as deferred compensation shall be deductible for the taxable year of the employer in which paid to the employee."

(4) Paragraph (2) of section 419(e) is amended by inserting "or" at the end of subparagraph (B), by striking out ", or" at the end of subparagraph (C), and inserting in lieu thereof a period, and by striking out subparagraph (D).

(5) Paragraph (5) of section 461(h) is amended to read as follows:

"(5) SUBSECTION NOT TO APPLY TO CERTAIN ITEMS.—This subsection shall not apply to any item for which a deduction is allowable under a provision of this title which specifically provides for a deduction for a reserve for estimated expenses."

(6) The table of sections for part II of subchapter B of chapter 1 is amended by striking out the item relating to section 81.

(7) The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by striking out the item relating to section 463.

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(c) EFFECTIVE DATE.—

26 USC 404 note.

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

26 USC 463 note.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who elected to have section 463 of the Internal Revenue Code of 1986 apply for such taxpayer's last taxable year beginning before January 1, 1988, and who is required to change his method of accounting by reason of the amendments made by this section—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary, and

(C) the net amount of adjustments required by section 481 of such Code to be taken into account by the taxpayer—

(i) shall be reduced by the balance in the suspense account under section 463(c) of such Code as of the close of such last taxable year, and

(ii) shall be taken into account over the 4-taxable year period beginning with the taxable year following such last taxable year as follows:

In the case of the:	The percentage taken into account is:
1st year	25
2nd year	5
3rd year	35
4th year	35.

Notwithstanding subparagraph (C)(ii), if the period the adjustments are required to be taken into account under section 481 of such Code is less than 4 years, such adjustments shall be taken into account ratably over such shorter period.

SEC. 10202. PROVISIONS RELATING TO INSTALLMENT SALES.

(a) REPEAL OF PROPORTIONATE DISALLOWANCE OF INSTALLMENT METHOD.—

(1) IN GENERAL.—Section 453C (relating to certain indebtedness treated as payment on installment obligations) is hereby repealed.

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part II of subchapter E of chapter 1 is amended by striking out the item relating to section 453C.

(b) REPEAL OF INSTALLMENT METHOD FOR DEALERS IN PROPERTY.—

(1) IN GENERAL.—Subparagraph (A) of section 453(b)(2) (defining installment sale) is amended to read as follows:

"(A) DEALER DISPOSITIONS.—Any dealer disposition (as defined in subsection (l))."

(2) DEALER DISPOSITION DEFINED.—Section 453 (relating to installment method) is amended by adding at the end thereof the following new subsection:

"(l) DEALER DISPOSITIONS.—For purposes of subsection (b)(2)(A)—

"(1) IN GENERAL.—The term 'dealer disposition' means any of the following dispositions:

"(A) PERSONAL PROPERTY.—Any disposition of personal property by a person who regularly sells or otherwise disposes of personal property on the installment plan.

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"(B) REAL PROPERTY.—Any disposition of real property which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business.

"(2) EXCEPTIONS.—The term 'dealer disposition' does not include—

"(A) FARM PROPERTY.—The disposition on the installment plan of any property used or produced in the trade or business of farming (within the meaning of section 2032A(e)(4) or (5)).

"(B) TIMESHARES AND RESIDENTIAL LOTS.—

"(i) IN GENERAL.—Any dispositions described in clause (ii) on the installment plan if the taxpayer elects to have paragraph (3) apply to any installment obligations which arise from such dispositions. An election under this paragraph shall not apply with respect to an installment obligation which is guaranteed by any person other than an individual.

"(ii) DISPOSITIONS TO WHICH SUBPARAGRAPH APPLIES.—A disposition is described in this clause if it is a disposition in the ordinary course of the taxpayer's trade or business to an individual of—

"(I) a timeshare right to use or a timeshare ownership interest in residential real property for not more than 6 weeks per year, or a right to use specified campgrounds for recreational purposes, or

"(II) any residential lot, but only if the taxpayer (or any related person) is not to make any improvements with respect to such lot.

For purposes of subclause (I), a timeshare right to use (or timeshare ownership interest in) property held by the spouse, children, grandchildren, or parents of an individual shall be treated as held by such individual.

"(C) CARRYING CHARGES OR INTEREST.—Any carrying charges or interest with respect to a disposition described in subparagraph (A) or (B) which are added on the books of account of the seller to the established cash selling price of the property shall be included in the total contract price of the property and, if such charges or interest are not so included, any payments received shall be treated as applying first against such carrying charges or interest.

"(3) PAYMENT OF INTEREST ON TIMESHARES AND RESIDENTIAL LOTS.—

"(A) IN GENERAL.—In the case of any installment obligation to which paragraph (2)(B) applies, the tax imposed by this chapter for any taxable year for which payment is received on such obligation shall be increased by the amount of interest determined in the manner provided under subparagraph (B).

"(B) COMPUTATION OF INTEREST.—

"(i) IN GENERAL.—The amount of interest referred to in subparagraph (A) for any taxable year shall be determined—

"(I) on the amount of the tax for such taxable year which is attributable to the payments received during such taxable year on installment obligations to which this subsection applies,

"(II) for the period beginning on the date of sale, and ending on the date such payment is received, and

"(III) by using the applicable Federal rate under section 1274 (without regard to subsection (d)(2) thereof) in effect at the time of the sale compounded semiannually.

"(ii) INTEREST NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), the portion of any tax attributable to the receipt of any payment shall be determined without regard to any interest imposed under subparagraph (A).

"(iii) TAXABLE YEAR OF SALE.—No interest shall be determined for any payment received in the taxable year of the disposition from which the installment obligation arises.

"(C) TREATMENT AS INTEREST.—Any amount payable under this paragraph shall be taken into account in computing the amount of any deduction allowable to the taxpayer for interest paid or accrued during such taxable year."

(c) TREATMENT OF INSTALLMENT OBLIGATIONS OF NONDEALERS.—Section 453A (relating to installment method for dealers in personal property) is amended to read as follows:

"SEC. 453A. SPECIAL RULES FOR NONDEALERS OF REAL PROPERTY.

"(a) GENERAL RULE.—In the case of an installment obligation to which this section applies—

"(1) interest shall be paid on the deferred tax liability with respect to such obligation in the manner provided under subsection (c), and

"(2) the pledging rules under subsection (d) shall apply.

"(b) INSTALLMENT OBLIGATIONS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—This section shall apply to any obligation which arises from the disposition of real property under the installment method which is property used in the taxpayer's trade or business or property held for the production of rental income, but only if the sales price of such property exceeds $150,000.

"(2) SPECIAL RULE FOR INTEREST PAYMENTS.—For purposes of subsection (a)(1), this section shall apply to an obligation described in paragraph (1) arising during a taxable year only if—

"(A) such obligation is outstanding as of the close of such taxable year, and

"(B) the face amount of all obligations of the taxpayer described in paragraph (1) which arose during, and are outstanding as of the close of, such taxable year exceeds $5,000,000.

Except as provided in regulations, all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as one person for purposes of this paragraph.

"(3) EXCEPTION FOR PERSONAL USE AND FARM PROPERTY.—An installment obligation shall not be treated as described in paragraph (1) if it arises from the disposition—

"(A) by an individual of personal use property (within the meaning of section 1275(b)(3)), or

"(B) of any property used or produced in the trade or business of farming (within the meaning of section 2032A(e)(4) or (5)). 101 STAT. 1330-391

"(4) SPECIAL RULE FOR TIMESHARES AND RESIDENTIAL LOTS.—An installment obligation shall not be treated as described in paragraph (1) if it arises from a disposition described in section 453(l)(2)(B), but the provisions of section 453(l)(3) (relating to interest payments on timeshares and residential lots) shall apply to such obligation.

"(5) SALES PRICE.—For purposes of paragraph (1), all sales or exchanges which are part of the same transaction (or a series of related transactions) shall be treated as 1 sale or exchange.

"(c) INTEREST ON DEFERRED TAX LIABILITY.—

"(1) IN GENERAL.—If an obligation to which this section applies is outstanding as of the close of any taxable year, the tax imposed by this chapter for such taxable year shall be increased by the amount of interest determined in the manner provided under paragraph (2).

"(2) COMPUTATION OF INTEREST.—For purposes of paragraph (1), the interest for any taxable year shall be an amount equal to the product of—

"(A) the applicable percentage of the deferred tax liability with respect to such obligation, multiplied by

"(B) the underpayment rate in effect under section 6621(a)(2) for the month with or within which the taxable year ends.

"(3) DEFERRED TAX LIABILITY.—For purposes of this section, the term 'deferred tax liability' means, with respect to any taxable year, the product of—

"(A) the amount of gain with respect to an obligation which has not been recognized as of the close of such taxable year, multiplied by

"(B) the maximum rate of tax in effect under section 1 or 11, whichever is appropriate, for such taxable year.

"(4) APPLICABLE PERCENTAGE.—For purposes of this subsection, the term 'applicable percentage' means, with respect to obligations arising in any taxable year, the percentage determined by dividing—

"(A) the portion of the aggregate face amount of such obligations outstanding as of the close of such taxable year in excess of $5,000,000, by

"(B) the aggregate face amount of such obligations outstanding as of the close of such taxable year.

"(5) REGULATIONS.[106]—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subsection including regulations providing for the application of this subsection in the case of contingent payments, short taxable years, and pass-thru entities.

"(d) PLEDGES, ETC., OF INSTALLMENT OBLIGATIONS.—

"(1) IN GENERAL.—For purposes of section 453, if any indebtedness (hereinafter in this subsection referred to as 'secured indebtedness') is secured by an installment obligation to which this section applies, the net proceeds of the secured indebtedness shall be treated as a payment received on such installment obligation as of the later of— 101 STAT. 1330-392

"(A) the time the indebtedness becomes secured indebtedness, or

"(B) the proceeds of such indebtedness are received by the taxpayer.

"(2) LIMITATION BASED ON TOTAL CONTRACT PRICE.—The amount treated as received under paragraph (1) by reason of

[106] Copy read "REGULATIONS—".

any secured indebtedness shall not exceed the excess (if any) of—

"(A) the total contract price, over

"(B) any portion of the total contract price received under the contract before such secured indebtedness was incurred (including amounts previously treated as received under paragraph (1) but not including amounts not taken into account by reason of paragraph (3)).

"(3) LATER PAYMENTS TREATED AS RECEIPT OF TAX PAID AMOUNTS.—If any amount is treated as received under paragraph (1) with respect to any installment obligation, subsequent payments received on such obligation shall not be taken into account for purposes of section 453 to the extent that the aggregate of such subsequent payments does not exceed the aggregate amount treated as received under paragraph (1).

"(4) SECURED INDEBTEDNESS.—For purposes of this subsection indebtedness is secured by an installment obligation to the extent that payment of principal or interest on such indebtedness is directly secured (under the terms of the indebtedness or any underlying arrangements) by any interest in such installment obligation."

(2) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter E of chapter 1 is amended by striking out the item relating to section 453A and inserting in lieu thereof the following new item:

"Sec. 453A. Special rules for nondealers of real property."

(3) CONFORMING AMENDMENTS.—Sections 381(c)(8) and 691(a)(4) and (5) are each amended by striking out "or 453A" each place it appears.

(d) MINIMUM TAX.—Paragraph (6) of section 56(a) (relating to installment sales of certain property) is amended to read as follows:

"(6) INSTALLMENT SALES OF CERTAIN PROPERTY.—In the case of any disposition after March 1, 1986, of any property described in section 1221(1), income from such disposition shall be determined without regard to the installment method under section 453. This paragraph shall not apply to any disposition with respect to which an election is in effect under section 453(l)(2)(B)."

26 USC 453 note.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to dispositions in taxable years beginning after December 31, 1987.

(2) SPECIAL RULES FOR DEALERS.—

(A) IN GENERAL.—In the case of dealer dispositions (within the meaning of section 453A of the Internal Revenue Code of 1986), the amendments made by subsections (a) and (b) shall apply to installment obligations arising from dispositions after December 31, 1987.

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(B) SPECIAL RULES FOR OBLIGATIONS ARISING FROM DEALER DISPOSITIONS AFTER FEBRUARY 28, 1986, AND BEFORE JANUARY 1, 1988.—

(i) IN GENERAL.—In the case of an applicable installment obligation arising from a disposition described in subclause (I) or (II) of section 453C(e)(1)(A)(i) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this section) before January 1, 1988, the amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1987.

(ii) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who is required by clause (i) to change its method of accounting for any taxable year with respect to obligations described in clause (i)—

(I) such change shall be treated as initiated by the taxpayer,

(II) such change shall be treated as made with the consent of the Secretary of the Treasury or his delegate, and

(III) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period not longer than 4 taxable years.

(3) SPECIAL RULE FOR NONDEALERS.—

(A) ELECTION.—A taxpayer may elect, at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe, to have the amendments made by subsections (a) and (c) apply to taxable years ending after December 31, 1986, with respect to dispositions and pledges occurring after August 16, 1986.

(B) PLEDGING RULES.—Except as provided in subparagraph (A)—

(i) IN GENERAL.—Section 453A(d) of the Internal Revenue Code of 1986 shall apply to any installment obligation which is pledged to secure any secured indebtedness (within the meaning of section 453A(d)(4) of such Code) after December 17, 1987, in taxable years ending after such date.

(ii) COORDINATION WITH SECTION 453C.—For purposes of section 453C of such Code (as in effect before its repeal), the face amount of any obligation to which section 453A(d) of such Code applies shall be reduced by the amount treated as payments on such obligation under section 453A(d) of such Code and the amount of any indebtedness secured by it shall not be taken into account.

(4) MINIMUM TAX.—The amendment made by subsection (d) shall apply to dispositions in taxable years beginning after December 31, 1986.

(5) COORDINATION WITH TAX REFORM ACT OF 1986.—The amendments made by this section shall not apply to any installment obligation or to any taxpayer during any period to the extent the amendments made by section 811 of the Tax Reform Act of 1986 do not apply to such obligation or during such period. 101 STAT. 1330-394

SEC. 10203. REDUCTION IN PERCENTAGE OF ITEMS TAKEN INTO ACCOUNT UNDER COMPLETED CONTRACT METHOD.

(a) IN GENERAL.—Section 460(a) (relating to percentage of completion—capitalized cost method) is amended—

(1) by striking out "40 percent" each place it appears in the text and heading thereof and inserting in lieu thereof "70 percent", and

(2) by striking out "60 percent" and inserting in lieu thereof "30 percent".

(b) EFFECTIVE DATES.— 26 USC 460 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contracts entered into after October 13, 1987.

(2) SPECIAL RULE FOR CERTAIN SHIP CONTRACTS.—

(A) IN GENERAL.—The amendments made by this section shall not apply in the case of a qualified ship contract.

(B) QUALIFIED SHIP CONTRACT.—For purposes of subparagraph (A), the term "qualified ship contract" [107] means any contract for the construction in the United States of not more than 5 ships if—

(i) such ships will not be constructed (directly or indirectly) for the Federal Government, and

(ii) the taxpayer reasonably expects to complete such contract within 5 years of the contract commencement

[107] Copy read " 'qualified ship contract' ".

date (as defined in section 460(g) of the Internal Revenue Code of 1986).

26 USC 263A note.

SEC. 10204. AMORTIZATION OF PAST SERVICE PENSION COSTS.

(a) IN GENERAL.—For purposes of sections 263A and 460 of the Internal Revenue Code of 1986, the allocable costs (within the meaning of section 263A(a)(2) or section 460(c) of such Code, whichever is applicable) with respect to any property shall include contributions paid to or under a pension or annuity plan whether or not such contributions represent past service costs.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsection (a) shall apply to costs incurred after December 31, 1987, in taxable years ending after such date.

(2) SPECIAL RULE FOR INVENTORY PROPERTY.—In the case of any property which is inventory in the hands of the taxpayer—

(A) IN GENERAL.—Subsection (a) shall apply to taxable years beginning after December 31, 1987.

(B) CHANGE IN METHOD OF ACCOUNTING.—If the taxpayer is required by this section to change its method of accounting for any taxable year—

(i) such change shall be treated as initiated by the taxpayer,

(ii) such change shall be treated as made with the consent of the Secretary of the Treasury or his delegate, and

(iii) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period not longer than 4 taxable years.

101 STAT. 1330-395

SEC. 10205. CERTAIN FARM CORPORATIONS REQUIRED TO USE ACCRUAL METHOD OF ACCOUNTING.

(a) GENERAL RULE.—Section 447 (relating to method of accounting for corporations engaged in farming) is amended by striking out subsections (c) and (e), by redesignating subsection (d) as subsection (e), and by inserting after subsection (b) the following new subsections:

"(c) EXCEPTION FOR CERTAIN CORPORATIONS.—For purposes of subsection (a), a corporation shall be treated as not being a corporation if it is—

"(1) an S corporation, or

"(2) a corporation the gross receipts of which meet the requirements of subsection (d).

"(d) GROSS RECEIPTS REQUIREMENTS.—

"(1) IN GENERAL.—A corporation meets the requirements of this subsection if, for each prior taxable year beginning after December 31, 1975, such corporation (and any predecessor corporation) did not have gross receipts exceeding $1,000,000. For purposes of the preceding sentence, all corporations which are members of the same controlled group of corporations (within the meaning of section 1563(a)) shall be treated as 1 corporation.

"(2) SPECIAL RULES FOR FAMILY CORPORATIONS.—

"(A) IN GENERAL.—In the case of a family corporation, paragraph (1) shall be applied—

"(i) by substituting 'December 31, 1985,' for 'December 31, 1975,'; and

"(ii) by substituting '$25,000,000' for '$1,000,000'.

"(B) GROSS RECEIPTS TEST.—

"(i) CONTROLLED GROUPS.—Notwithstanding the last sentence of paragraph (1), in the case of a family corporation—

"(I) except as provided by the Secretary, only the applicable percentage of gross receipts of any other member of any controlled group of corporations of

which such corporation is a member shall be taken into account, and

"(II) under regulations, gross receipts of such corporation or of another member of such group shall not be taken into account by such corporation more than once.

"(ii) PASS-THRU ENTITIES.—For purposes of paragraph (1), if a family corporation holds directly or indirectly any interest in a partnership, estate, trust or other pass-thru entity, such corporation shall take into account its proportionate share of the gross receipts of such entity.

"(iii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the term 'applicable percentage' means the percentage equal to a fraction—

"(I) the numerator of which is the fair market value of the stock of another corporation held directly or indirectly as of the close of the taxable year by the family corporation, and

"(II) the denominator of which is the fair market value of all stock of such corporation as of such time.

101 STAT. 1330-396

For purposes of this clause, the term 'stock' does not include stock described in section 1563(c)(1).[108]

"(C) FAMILY CORPORATION.—For purposes of this section,[108a] the term 'family corporation' means—

"(i) any corporation if at least 50 percent of the total combined voting power of all classes of stock entitled to vote, and at least 50 percent of all other classes of stock of the corporation, are owned by members of the same family, and

"(ii) any corporation described in subsection (h)."

(b) SUSPENSE ACCOUNT IN LIEU OF 481 ADJUSTMENTS.—Section 447 is amended by adding at the end thereof the following new subsection:

"(i) SUSPENSE ACCOUNT FOR FAMILY CORPORATIONS.—

"(1) IN GENERAL.—If any family corporation is required by this section to change its method of accounting for any taxable year (hereinafter in this subsection referred to as the 'year of the change'), notwithstanding subsection (f), such corporation shall establish a suspense account under this subsection in lieu of taking into account adjustments under section 481(a) with respect to amounts included in the suspense account.

"(2) INITIAL OPENING BALANCE.—The initial opening balance of the account described in paragraph (1) shall be the lesser of—

"(A) the net adjustments which would have been required to be taken into account under section 481 but for this subsection, or

"(B) the amount of such net adjustments determined as of the beginning of the taxable year preceding the year of change.

If the amount referred to in subparagraph (A) exceeds the amount referred to in subparagraph (B), notwithstanding paragraph (1), such excess shall be included in gross income in the year of the change.

"(3) REDUCTION IN ACCOUNT IF FARMING BUSINESS CONTRACTS.—If—

"(A) the gross receipts of the corporation from the trade or business of farming for the year of the change or any subsequent taxable year, is less than

[108] Copy read "1563(c)(1).".
[108a] Copy read "section."

"(B) such gross receipts for the taxpayer's last taxable year beginning before the year of the change (or for the most recent taxable year for which a reduction in the suspense account was made under this paragraph),

the amount in the suspense account (after taking into account prior reductions) shall be reduced by the percentage by which the amount described in subparagraph (A) is less than the amount described in subparagraph (B).

"(4) INCOME INCLUSION.—Any reduction in the suspense account under paragraph (3) shall be included in gross income for the taxable year of the reduction.

"(5) INCLUSION WHERE CORPORATION CEASES TO BE A FAMILY CORPORATION.—

"(A) IN GENERAL.—If the corporation ceases to be a family corporation during any taxable year, the amount in the suspense account (after taking into account prior reductions) shall be included in gross income for such taxable year.

101 STAT. 1330-397

"(B) SPECIAL RULE FOR CERTAIN TRANSFERS.—For purposes of subparagraph (A), any transfer in a corporation after December 15, 1987, shall be treated as a transfer to a person whose ownership could not qualify such corporation as a family corporation unless it is a transfer—

"(i) to a member of the family of the transferor, or

"(ii) in the case of a corporation described in subsection (h), to a member of a family which on December 15, 1987, held stock in such corporation which qualified the corporation under subsection (h).

"(6) SUBCHAPTER C TRANSACTIONS.—The application of this subsection with respect to a taxpayer which is a party to any transaction with respect to which there is nonrecognition of gain or loss to any party by reason of subchapter C shall be determined under regulations prescribed by the Secretary."

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (e) of section 447 (as redesignated by subsection (a)) is amended by striking out "subsection (c)(2)" and inserting in lieu thereof "subsection (d)".

(2) Paragraph (1) of section 447(h) is amended—

(A) by striking out "This section shall not apply to any corporation" and inserting in lieu thereof "A corporation is described in this subsection",

(B) by striking out "subsection (d)" each place it appears and inserting in lieu thereof "subsection (e)", and

(C) by striking out "subsection (d)(1)" each place it appears and inserting in lieu thereof "subsection (e)(1)".

26 USC 447 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

SEC. 10206. ENTITIES MAY ELECT TAXABLE YEARS OTHER THAN REQUIRED TAXABLE YEAR.

(a) ELECTION OF DIFFERENT YEAR.—

(1) IN GENERAL.—Part I of subchapter E of chapter 1 (relating to accounting periods) is amended by adding at the end thereof the following new section:[109]

26 USC 444.

"SEC. 444. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED TAXABLE YEAR.

"(a) GENERAL RULE.—Except as provided in subsections (b) and (c), a partnership, S corporation, or personal service corporation may elect to have a taxable year other than the required taxable year.

"(b) LIMITATIONS ON TAXABLE YEARS WHICH MAY BE ELECTED.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), an election may be made under subsection (a) only if the deferral period of the taxable year elected is not longer than 3 months.

[109] Copy read "section.".

"(2) CHANGES IN TAXABLE YEAR.—Except as provided in paragraph (3), in the case of an entity changing a taxable year, an election may be made under subsection (a) only if the deferral period of the taxable year elected is not longer than the shorter of—

"(A) 3 months, or

"(B) the deferral period of the taxable year which is being changed.

"(3) SPECIAL RULE FOR ENTITIES RETAINING 1986 TAXABLE YEARS.—In the case of an entity's 1st taxable year beginning after December 31, 1986, an entity may elect a taxable year under subsection (a) which is the same as the entity's last taxable year beginning in 1986.

"(4) DEFERRAL PERIOD.—For purposes of this subsection, the term 'deferral period' means, with respect to any taxable year of the entity, the months between—

"(A) the beginning of such year, and

"(B) the close of the 1st required taxable year ending within such year.

"(c) EFFECT OF ELECTION.—If an entity makes an election under subsection (a), then—

"(1) in the case of a partnership or S corporation, such entity shall make the payments required by section 7519, and

"(2) in the case of a personal service corporation, such corporation shall be subject to the deduction limitations of section 280H.

"(d) ELECTIONS.—

"(1) PERSON MAKING ELECTION.—An election under subsection (a) shall be made by the partnership, S corporation, or personal service corporation.

"(2) PERIOD OF ELECTION.—

"(A) IN GENERAL.—Any election under subsection (a) shall remain in effect until the partnership, S corporation, or personal service corporation changes its taxable year. Any change to a required taxable year may be made without the consent of the Secretary.

"(B) NO FURTHER ELECTION.—If an election is terminated under subparagraph (A), the partnership, S corporation, or personal service corporation may not make another election under subsection (a).

"(3) TIERED STRUCTURES, ETC.—No election may be made under subsection (a) with respect to an entity which is part of a tiered structure other than a tiered structure comprised of 1 or more partnerships or S corporations all of which have the same taxable year.

"(e) REQUIRED TAXABLE YEAR.—For purposes of this section, the term 'required taxable year' means the taxable year determined under section 706(b), 1378, or 441(i) without taking into account any taxable year which is allowable by reason of business purposes. Solely for purposes of the preceding sentence, sections 706(b), 1378, and 441(i) shall be treated as in effect for taxable years beginning before January 1, 1987.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations to prevent the avoidance of subsection (b)(2)(B) or (d)(2)(B) through the change in form of an entity."

(2) CONFORMING AMENDMENT.—The table of sections for part I of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 444. Election of taxable year other than required taxable year."

(b) REQUIRED PAYMENTS.—

101 STAT. 1330-399

(1) IN GENERAL.—Chapter 77 is amended by adding at the end thereof the following new section:

26 USC 7519.

"SEC. 7519. REQUIRED PAYMENTS FOR ENTITIES ELECTING NOT TO HAVE REQUIRED TAXABLE YEAR.

"(a) GENERAL RULE.—This section applies to a partnership or S corporation for any taxable year, if—

"(1) an election under section 444 is in effect for the taxable year, and

"(2) the required payment determined under subsection (b) for such taxable year (or any preceding taxable year) exceeds $500.

"(b) REQUIRED PAYMENT.—For purposes of this section, the term 'required payment' means, with respect to any applicable election year of a partnership or S corporation, an amount equal to—

"(1) the excess of the product of—

"(A) the applicable percentage of the adjusted highest section 1 rate, multiplied by

"(B) the net base year income of the entity, over

"(2) the amount of the required payment for the preceding applicable election year.

For purposes of paragraph (1)(A), the term 'adjusted highest section 1 rate' means the highest rate of tax in effect under section 1 as of the end of the base year plus 1 percentage point (or, in the case of applicable election years beginning in 1987, 36 percent).

"(c) REFUND OF PAYMENTS.—If the amount determined under subsection (b)(2) exceeds the amount determined under subsection (b)(1), then the entity shall be entitled to a refund of such excess.

"(d) NET BASE YEAR INCOME.—For purposes of this section—

"(1) IN GENERAL.—An entity's net base year income shall be equal to the sum of—

"(A) the deferral ratio multiplied by the entity's net income for the base year, plus

"(B) the excess (if any) of—

"(i) the deferral ratio multiplied by the aggregate amount of applicable payments made by the entity during the base year, over

"(ii) the aggregate amount of such applicable payments made during the deferral period of the base year.

For purposes of this paragraph, the term 'deferral ratio' means the ratio which the number of months in the deferral period of the base year bears to the number of months in the partnership's or S corporation's taxable year.

"(2) NET INCOME.—Net income is determined by taking into account the aggregate amount of the following items—

"(A) PARTNERSHIPS.—In the case of a partnership, net income shall be the amount (not below zero) determined by taking into account the aggregate amount of the partnership's items described in section 702(a) (other than credits).

"(B) S CORPORATIONS.—In the case of an S corporation, net income shall be the amount (not below zero) determined by taking into account the aggregate amount of the S corporation's items described in section 1366(a) (other than credits). If the S corporation was a C corporation for the base year, its taxable income for such year shall be treated as its net income for such year.

"(C) CERTAIN LIMITATIONS DISREGARDED.—For purposes of subparagraph (A) or (B), any limitation on the amount of any item described in either such paragraph which may be taken into account for purposes of computing the taxable income of a partner or shareholder shall be disregarded.

101 STAT. 1330-400

"(3) APPLICABLE PAYMENTS.—

"(A) IN GENERAL.—The term 'applicable payment' means amounts paid or incurred by a partnership or S corporation which are includible in gross income of a partner or shareholder.

"(B) EXCEPTIONS.—The term 'applicable payment' shall not include any—

"(i) gain from the sale or exchange of property between the partner or shareholder and the partnership or S corporation, and

"(ii) dividend paid by the S corporation.

"(4) APPLICABLE PERCENTAGE.—The applicable percentage is the percentage determined in accordance with the following table:

"If the applicable election year of the partnership or S corporation begins during:	The applicable percentage is:
1987	25
1988	50
1989	75
1990 or thereafter	100.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DEFERRAL PERIOD.—The term 'deferral period' has the meaning given to such term by section 444(b)(4).

"(2) YEARS.—

"(A) BASE YEAR.—The term 'base year' means, with respect to any applicable election year, the taxable year of the partnership or S corporation preceding such applicable election year.

"(B) APPLICABLE ELECTION YEAR.—The term 'applicable election year' means any taxable year of a partnership or S corporation with respect to which an election is in effect under section 444.

"(3) REQUIREMENT OF REPORTING.—Each partnership or S corporation which makes an election under section 444 shall include on any required return or statement such information as the Secretary shall prescribe as is necessary to carry out the provisions of this section.

"(f) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection or in regulations prescribed by the Secretary, any payment required by this section shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C. Regulations.

"(2) DUE DATE.—The amount of any payment required by this section shall be paid on or before April 15 of the calendar year following the calendar year in which the applicable election year begins (or such later date as may be prescribed by the Secretary).

"(3) INTEREST.—For purposes of determining interest, any payment required by this section shall be treated as a tax; except that no interest shall be allowed with respect to any refund of a payment made under this section.

"(4) PENALTIES.— 101 STAT. 1330-401

"(A) IN GENERAL.—In the case of any failure by any person to pay on the date prescribed therefor any amount required by this section, there shall be imposed on such person a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of the amount of the payment required under this section over the amount (if any) of such payment paid on or before the date prescribed therefor.

"(B) NEGLIGENCE AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of section 6653, any payment required by this section shall be treated as a tax.

"(C) WILLFUL [110] FAILURE.—If any partnership or S corporation willfully fails to comply with the requirements of this section, section 444 shall cease to apply with respect to such partnership or S corporation.

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[110] Copy read "WILLFULL"

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section and section 280H, including regulations for annualizing the income and applicable payments of an entity if the base year is a taxable year of less than 12 months."

(2) CONFORMING AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7519. Required payments for entities electing not to have required taxable year."

(c) DEDUCTION LIMITATIONS.—

(1) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

26 USC 280H.

"SEC. 280H. LIMITATION ON CERTAIN AMOUNTS PAID TO EMPLOYEE-OWNERS BY PERSONAL SERVICE CORPORATIONS ELECTING ALTERNATIVE TAXABLE YEARS.

"(a) GENERAL RULE.—If—

"(1) an election by a personal service corporation under section 444 is in effect for a taxable year, and

"(2) such corporation does not meet the minimum distribution requirements of subsection (c) for such taxable year,

then the deduction otherwise allowed under this chapter for applicable amounts paid or incurred by such corporation to employee-owners shall not exceed the maximum deductible amount. The preceding sentence shall not apply for purposes of subchapter G (relating to personal holding companies).

"(b) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—If any amount is not allowed as a deduction for a taxable year under subsection (a), such amount shall be treated as paid or incurred in the succeeding taxable year.

"(c) MINIMUM DISTRIBUTION REQUIREMENT.—For purposes of this section—

"(1) IN GENERAL.—A personal service corporation meets the minimum distribution requirements of this subsection if the applicable amounts paid or incurred during the deferral period of the taxable year (determined without regard to subsection (b)) equal or exceed the lesser of—

101 STAT. 1330-402

"(A) the product of—

"(i) the applicable amounts paid or incurred during the preceding taxable year, divided by the number of months in such taxable year, multiplied by

"(ii) the number of months in the deferral period of the preceding taxable year, or

"(B) the applicable percentage of the adjusted taxable income for the deferral period of the taxable year.

"(2) APPLICABLE PERCENTAGE.—[1108] The term 'applicable percentage' means the percentage (not in excess of 95 percent) determined by dividing—

"(A) the applicable amounts paid or incurred during the 3 taxable years immediately preceding the taxable year, by

"(B) the adjusted taxable income of such corporation for such 3 taxable years.

"(d) MAXIMUM DEDUCTIBLE AMOUNT.—For purposes of this section, the term 'maximum deductible amount' means the sum of—

"(1) the applicable amounts paid or incurred during the deferral period, plus

"(2) an amount equal to the product of—

"(A) the amount determined under paragraph (1), divided by the number of months in the deferral period, multiplied by

[1108] Copy read "PERCENTAGE.—".

"(B) the number of months in the nondeferral period.

"(e) DISALLOWANCE OF NET OPERATING LOSS CARRYBACKS.—No net operating loss carryback shall be allowed to (or from) any taxable year of a personal service corporation to which an election under section 444 applies.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE AMOUNT.—The term 'applicable amount' means any amount paid to an employee-owner which is includible in the gross income of such employee, other than—

"(A) any gain from the sale or exchange of property between the owner-employee and the corporation, or

"(B) any dividend paid by the corporation.

"(2) EMPLOYEE-OWNER.—The term 'employee-owner' has the meaning given such term by section 296A(b)(2).

"(3) NONDEFERRAL AND DEFERRAL PERIODS.—

"(A) DEFERRAL PERIOD.—The term 'deferral period' has the meaning given to such term by section 444(b)(4).

"(B) NONDEFERRAL PERIOD.—The term 'nondeferral period' means the portion of the taxable year of the personal service corporation which occurs after the portion of such year constituting the deferral period.[111]

"(4) ADJUSTED TAXABLE INCOME.—The term 'adjusted taxable income' means taxable income increased by any amount paid or incurred to an employee-owner which was includible in the gross income of such employee-owner."

(2) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following item: 101 STAT. 1330-403

"Sec. 280H. Limitation on certain amounts paid to owner-employees by personal service corporations electing alternative taxable years."

(d) EFFECTIVE DATES.— 26 USC 444 note.

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) REQUIRED PAYMENTS.—The amendments made by subsection (b) shall apply to applicable election years beginning after December 31, 1986.

(3) ELECTIONS.—Any election under section 444 of the Internal Revenue Code of 1986 (as added by subsection (a)) for an entity's 1st taxable year beginning after December 31, 1986, shall not be required to be made before the 90th day after the date of the enactment of this Act.

(4) SPECIAL RULE FOR EXISTING ENTITIES ELECTING S CORPORATION STATUS.—If a C corporation (within the meaning of section 1361(a)(2)[112] of the Internal Revenue Code of 1986) with a taxable year other than the calendar year—

(A) made an election after September 18, 1986, and before January 1, 1988, under section 1362 of such Code to be treated as an S corporation, and

(B) elected to have the calendar year as the taxable year of the S corporation,

then section 444(b)(2)(B) of such Code shall be applied by taking into account the deferral period of the last taxable year of the C corporation rather than the deferral period of the taxable year being changed.

PART II—PARTNERSHIP PROVISIONS

SEC. 10211. CERTAIN PUBLICLY TRADED PARTNERSHIPS TREATED AS CORPORATIONS.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by adding at the end thereof the following new section:

[111] Copy read "period.' ".

[112] Copy read "1361(a)(2))".

26 USC 7704.

"SEC. 7704. CERTAIN PUBLICLY TRADED PARTNERSHIPS TREATED AS CORPORATIONS.

"(a) GENERAL RULE.—For purposes of this title, except as provided in subsection (c), a publicly traded partnership shall be treated as a corporation.

"(b) PUBLICLY TRADED PARTNERSHIP.—For purposes of this section, the term 'publicly traded partnership' means any partnership if—

"(1) interests in such partnership are traded on an established securities market, or

"(2) interests in such partnership are readily tradable on a secondary market (or the substantial equivalent thereof).

"(c) EXCEPTION FOR PARTNERSHIPS WITH PASSIVE-TYPE INCOME.—

"(1) IN GENERAL.—Subsection (a) shall not apply to any publicly traded partnership for any taxable year if such partnership met the gross income requirements of paragraph (2) for such taxable year and each preceding taxable year beginning after December 31, 1987, during which the partnership (or any predecessor) was in existence.

"(2) GROSS INCOME REQUIREMENTS.—A partnership meets the
101 STAT. 1330-404
gross income requirements of this paragraph for any taxable year if 90 percent or more of the gross income of such partnership for such taxable year consists of qualifying income.

"(3) EXCEPTION NOT TO APPLY TO CERTAIN PARTNERSHIPS WHICH COULD QUALIFY AS REGULATED INVESTMENT COMPANIES.—This subsection shall not apply to any partnership which would be described in section 851(a) if such partnership were a domestic corporation. To the extent provided in regulations, the preceding sentence shall not apply to any partnership a principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to commodities.

"(d) QUALIFYING INCOME.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualifying income' means—

"(A) interest,

"(B) dividends,

"(C) real property rents,

"(D) gain from the sale or other disposition of real property (including property described in section 1221(1)),

"(E) income and gains derived from the exploration, development, mining or production, processing, refining, transportation (including pipelines transporting gas, oil, or products thereof), or the marketing of any mineral or natural resource (including fertilizer, geothermal energy, and timber),

"(F) any gain from the sale or disposition of a capital asset (or property described in section 1231(b)) held for the production of income described in any of the foregoing subparagraphs of this paragraph, and

"(G) in the case of a partnership described in the second sentence of subsection (c)(3), income and gains from commodities (not described in section 1221(1)) or futures, forwards, and options with respect to commodities.

"(2) CERTAIN INTEREST NOT QUALIFIED.—Interest shall not be treated as qualifying income if—

"(A) such interest is derived in the conduct of a financial or insurance business, or

"(B) such interest would be excluded from the term 'interest' under section 856(f).

"(3) REAL PROPERTY RENT.—The term 'real property rent' means amounts which would qualify as rent from real property under section 856(d) if such section were applied without regard to paragraph (2)(C) thereof (relating to independent contractor requirements).

"(4) CERTAIN INCOME QUALIFYING UNDER REGULATED INVESTMENT COMPANY OR REAL ESTATE TRUST PROVISIONS.—The term 'qualifying income' also includes any income which would qualify under section 851(b)(2) or 856(c)(2).

"(5) SPECIAL RULE FOR DETERMINING GROSS INCOME FROM CERTAIN REAL PROPERTY SALES.—In the case of the sale or other disposition of real property described in section 1221(1), gross income shall not be reduced by inventory costs.

"(e) INADVERTENT TERMINATIONS.—If—

"(1) a partnership fails to meet the gross income requirements of subsection (c)(2),

"(2) the Secretary determines that such failure was inadvertent,

101 STAT. 1330-405

"(3) no later than a reasonable time after the discovery of such failure, steps are taken so that such partnership once more meets such gross income requirements, and

"(4) such partnership agrees to make such adjustments (including adjustments with respect to the partners) as may be required by the Secretary with respect to such period,

then, notwithstanding such failure, such entity shall be treated as continuing to meet such gross income requirements for such period.

"(f) EFFECT OF BECOMING CORPORATION.—As of the 1st day that a partnership is treated as a corporation under this section, for purposes of this title, such partnership shall be treated as—

"(1) transferring all of its assets (subject to its liabilities) to a newly formed corporation in exchange for the stock of the corporation, and

"(2) distributing such stock to its partners in liquidation of their interests in the partnership."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by adding at the end thereof the following new item:

"Sec. 7704. Certain publicly traded partnerships treated as corporations."

(c) EFFECTIVE DATE.— 26 USC 7704 note.

(1) IN GENERAL.—The amendments made by this section shall apply—

(A) except as provided in subparagraph (B), to taxable years beginning after December 31, 1987, or

(B) in the case of an existing partnership, to taxable years beginning after December 31, 1997.

(2) EXISTING PARTNERSHIP.—For purposes of this subsection—

(A) IN GENERAL.—The term "existing partnership" means any partnership if—

(i) such partnership was a publicly traded partnership on December 17, 1987,

(ii) a registration statement indicating that such partnership was to be a publicly traded partnership was filed with the Securities and Exchange Commission with respect to such partnership on or before such date, or

(iii) with respect to such partnership, an application was filed with a State regulatory commission on or before such date seeking permission to restructure a portion of a corporation as a publicly traded partnership.

(B) SPECIAL RULE WHERE SUBSTANTIAL NEW LINE OF BUSINESS ADDED AFTER DECEMBER 17, 1987.—A partnership which, but for this subparagraph, would be treated as an existing partnership shall cease to be treated as an existing partnership as of the 1st day after December 17, 1987, on which there has been an addition of a substantial new line of business with respect to such partnership.

SEC. 10212. TREATMENT OF PUBLICLY TRADED PARTNERSHIPS UNDER SECTION 469.

(a) GENERAL RULE.—Section 469 (relating to passive activity losses and credits limited) is amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after
101 STAT. 1330-406 subsection (j) the following new subsection:

"(k) SEPARATE APPLICATION OF SECTION IN CASE OF PUBLICLY TRADED PARTNERSHIPS.—

"(1) IN GENERAL.—This section shall be applied separately with respect to items attributable to each publicly traded partnership (and subsection (i) shall not apply with respect to items attributable to any such partnership). The preceding sentence shall not apply to any credit determined under section 42, or any rehabilitation investment credit (within the meaning of section 48(o)), attributable to a publicly traded partnership to the extent the amount of any such credits exceeds the regular tax liability attributable to income from such partnership.

"(2) PUBLICLY TRADED PARTNERSHIP.—For purposes of this section, the term 'publicly traded partnership' means any partnership if—

"(A) interests in such partnership are traded on an established securities market, or

"(B) interests in such partnership are readily tradable on a secondary market (or the substantial equivalent thereof)."

(b) CONFORMING AMENDMENTS.—Paragraph (3) of section 58(b) and subparagraph (E) of section 163(d)(4) are each amended by striking out "469(l)" and inserting in lieu thereof "469(m)".

26 USC 58 note. (c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 501 of the Tax Reform Act of 1986.

SEC. 10213. TREATMENT OF PUBLICLY TRADED PARTNERSHIPS FOR UNRELATED BUSINESS TAX.

(a) GENERAL RULE.—Subsection (c) of section 512 (relating to special rules for partnerships) is amended to read as follows:

"(c) SPECIAL RULES FOR PARTNERSHIPS.—

"(1) IN GENERAL.—If a trade or business regularly carried on by a partnership of which an organization is a member is an unrelated trade or business with respect to such organization, such organization in computing its unrelated business taxable income shall, subject to the exceptions, additions, and limitations contained in subsection (b), include its share (whether or not distributed) of the gross income of the partnership from such unrelated trade or business and its share of the partnership deductions directly connected with such gross income.

"(2) SPECIAL RULE FOR PUBLICLY TRADED PARTNERSHIPS.—Notwithstanding any other provision of this section—

"(A) any organization's share (whether or not distributed) of the gross income of a publicly traded partnership (as defined in section 469(k)(2)) shall be treated as gross income derived from an unrelated trade or business, and

"(B) such organization's share of the partnership deductions shall be allowed in computing unrelated business taxable income.

"(3) SPECIAL RULE WHERE PARTNERSHIP YEAR IS DIFFERENT FROM ORGANIZATION'S YEAR.—If the taxable year of the organization is different from that of the partnership, the amounts to be included or deducted in computing the unrelated business taxable income under paragraph (1) or (2) shall be based upon the income and deductions of the partnership for any taxable year of the partnership ending within or with the taxable year of the organization."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to partnership interests acquired after December 17, 1987. 26 USC 512 note.
101 STAT. 1330-407

SEC. 10214. TREATMENT OF CERTAIN PARTNERSHIP ALLOCATIONS.

(a) GENERAL RULE.—Clause (vi) of section 514(c)(9)(B) is amended to read as follows:

"(vi) the real property is held by a partnership unless the partnership meets the requirements of clauses (i) through (v) and unless—

"(I) all of the partners of the partnership are qualified organizations,

"(II) each allocation to a partner of the partnership which is a qualified organization is a qualified allocation (within the meaning of section 168(h)(6)), or

"(III) such partnership meets the requirements of subparagraph (E)."

(b) CERTAIN ALLOCATIONS PERMITTED.—Paragraph (9) of section 514(c) is amended by adding at the end thereof the following new subparagraph:

"(E) CERTAIN ALLOCATIONS PERMITTED.—

"(i) IN GENERAL.—A partnership meets the requirements of this subparagraph if—

"(I) the allocation of items to any partner other than a qualified organization cannot result in such partner having a share of the overall partnership loss for any taxable year greater than such partner's share of the overall partnership income for the taxable year for which such partner's income share will be the smallest,

"(II) the allocation of items to any partner which is a qualified organization cannot result in such partner having a share of the overall partnership income for any taxable year greater than such partner's share of the overall partnership loss for the taxable year for which such partner's loss share will be the smallest, and

"(III) each allocation with respect to the partnership has substantial economic effect within the meaning of section 704(b)(2).

For purposes of this clause, items allocated under section 704(c) shall not be taken into account.

"(ii) SPECIAL RULES.—

"(I) CHARGEBACKS.—Except as provided in regulations, a partnership may without violating the requirements of this subparagraph provide for chargebacks with respect to disproportionate losses previously allocated to qualified organizations and disproportionate income previously allocated to other partners. Any chargeback referred to in the preceding sentence shall not be at a ratio in excess of the ratio under which the loss or income (as the case may be) was allocated.

"(II) PREFERRED RATES OF RETURN, ETC.—To the extent provided in regulations, a partnership may without violating the requirements of this subparagraph provide for reasonable preferred returns or reasonable guaranteed payments."
101 STAT. 1330-408

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to— 26 USC 514 note.

(1) property acquired by the partnership after October 13, 1987, and

(2) partnership interests acquired after October 13, 1987,

except that such amendments shall not apply in the case of any property (or partnership interest) acquired pursuant to a written

binding contract in effect on October 13, 1987, and at all times thereafter before such property (or interest) is acquired.

SEC. 10215. STUDY.

The Secretary of the Treasury or his delegate shall conduct a study of—

(1) the issue of treating publicly traded limited partnerships (and other partnerships which significantly resemble corporations) as corporations for Federal income tax purposes, including the issues of disincorporation and opportunities for avoidance of the corporate tax, and

(2) the administrative and compliance issues related to the tax treatment of publicly traded partnerships and other large partnerships.

Reports.

Not later than January 1, 1989, the Secretary of the Treasury or his delegate shall submit a report on such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, together with such recommendations as he may deem appropriate. Not later than May 1, 1988, an interim report with respect to the issues referred to in paragraph (2) shall be submitted to such Committees.

PART III—CORPORATE PROVISIONS

SEC. 10221. REDUCTION IN DIVIDENDS RECEIVED DEDUCTION FOR DIVIDENDS FROM CORPORATIONS NOT 20-PERCENT OWNED.

(a) GENERAL RULE.—The following provisions are each amended by striking out "80 percent" and inserting in lieu thereof "70 percent":

(1) Section 243(a)(1) (relating to dividends received by corporations).

(2) Subsections (a)(3) and (b)(2) of section 244 (relating to dividends received on certain preferred stock).

(b) RETENTION OF 80-PERCENT DIVIDENDS RECEIVED DEDUCTION FOR DIVIDENDS FROM 20-PERCENT OWNED CORPORATIONS.—Section 243 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) RETENTION OF 80-PERCENT DIVIDENDS RECEIVED DEDUCTION FOR DIVIDENDS FROM 20-PERCENT OWNED CORPORATIONS.—

"(1) IN GENERAL.—In the case of any dividend received from a 20-percent owned corporation—

"(A) subsection (a)(1) of this section, and

"(B) subsections (a)(3) and (b)(2) of section 244,

shall be applied by substituting '80 percent' for '70 percent'.

"(2) 20-PERCENT OWNED CORPORATION.—For purposes of this section, the term '20-percent owned corporation' means any corporation if 20 percent or more of the stock of such corporation (by vote and value) is owned by the taxpayer. For purposes of the preceding sentence, stock described in section 1504(a)(4) shall not be taken into account."

101 STAT. 1330-409

(c) MODIFICATIONS TO TAXABLE YEAR LIMITATIONS.—

(1) Subsection (b) of section 246 (relating to limitation on aggregate amount of deductions) is amended—

(A) by striking out "80 percent" in paragraph (1) and inserting in lieu thereof "the percentage determined under paragraph (3)", and

(B) by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULES.—The provisions of paragraph (1) shall be applied—

"(A) first separately with respect to dividends from 20-percent owned corporations (as defined in section 243(c)(2)) and the percentage determined under this paragraph shall be 80 percent, and

"(B) then separately with respect to dividends not from 20-percent owned corporations and the percentage determined under this paragraph shall be 70 percent and the taxable income shall be reduced by the aggregate amount of dividends from 20-percent owned corporations (as so defined)."

(2) Subparagraph (B) of section 805(a)(4) is amended by striking out "shall be 80 percent of the life insurance company taxable income" and inserting in lieu thereof "shall be the percentage determined under section 246(b)(3) of the life insurance company taxable income (and such limitation shall be applied as provided in section 246(b)(3))".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 245(c)(1) is amended by striking out "85 percent" and inserting in lieu thereof "70 percent (80 percent in the case of dividends from a 20-percent owned corporation as defined in section 243(c)(2))".

(2) Paragraph (1) of section 246A(a) is amended by striking out "80 percent" and inserting in lieu thereof "70 percent (80 percent in the case of any dividend from a 20-percent owned corporation as defined in section 243(c)(2))".

(3) Subparagraph (A) of section 854(b)(1) is amended by inserting before the period at the end thereof the following: "and such dividend shall be treated as received from a corporation which is not a 20-percent owned corporation".

(4) Paragraph (2) of section 861(a) is amended—

(A) by striking out "100/85th" and inserting in lieu thereof "100/70th", and

(B) by adding at the end thereof the following new sentence:

"In the case of any dividend from a 20-percent owned corporation (as defined in section 243(c)(2)), subparagraph (B) shall be applied by substituting '100/80th' for '100/70th'."

(e) EFFECTIVE DATES.— 26 USC 243 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to dividends received or accrued after December 31, 1987, in taxable years ending after such date. 101 STAT. 1330-410

(2) AMENDMENTS RELATING TO LIMITATIONS.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1987.

SEC. 10222. CERTAIN EARNINGS AND PROFITS ADJUSTMENTS NOT TO APPLY FOR CERTAIN PURPOSES.

(a) SPECIAL RULE FOR DETERMINING ADJUSTED BASIS OF STOCK OF MEMBERS OF AFFILIATED GROUP.—

(1) IN GENERAL.—Section 1503 (relating to computation and payment of tax by affiliated group) is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR DETERMINING ADJUSTMENTS TO BASIS.—

"(1) IN GENERAL.—Solely for purposes of determining gain or loss on the disposition of intragroup stock, in determining the adjustments to the basis of such intragroup stock on account of the earnings and profits of any member of an affiliated group for any consolidated year—

"(A) such earnings and profits shall be determined as if section 312 were applied for such taxable year (and all preceding consolidated years of the member with respect to such group) without regard to subsections (k) and (n) thereof, and

"(B) earnings and profits shall not include any amount excluded from gross income under section 108 to the extent the amount so excluded was not applied to reduce tax attributes (other than basis in property).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) INTRAGROUP STOCK.—The term 'intragroup stock' means any stock which—

"(i) is in a corporation which is or was a member of an affiliated group of corporations, and

"(ii) is held by another member of such group.

Such term includes any other property the basis of which is determined (in whole or in part) by reference to the basis of stock described in the preceding sentence.

"(B) CONSOLIDATED YEAR.—The term 'consolidated year' means any taxable year for which the affiliated group makes a consolidated return."

26 USC 1503 note.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply to any intragroup stock disposed of after December 15, 1987. For purposes of determining the adjustments to the basis of such stock, such amendment shall be deemed to have been in effect [113] for all periods whether before, on, or after December 15, 1987.

(B) EXCEPTION.—The amendment made by paragraph (1) shall not apply to any intragroup stock disposed of after December 15, 1987, and before January 1, 1989, if such disposition is pursuant to a written binding contract, governmental order, letter of intent or preliminary agreement, or stock acquisition agreement, in effect on or before December 15, 1987.

(b) DISTRIBUTIONS RECEIVED BY 20-PERCENT CORPORATE SHAREHOLDERS.—

101 STAT. 1330-411

(1) IN GENERAL.—Paragraph (1) of section 301(f) (relating to special rule for certain distributions received by 20-percent corporate shareholders) is amended by striking out "subsection (n) thereof" and inserting in lieu thereof "subsections (k) and (n) thereof".

26 USC 301 note.

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to distributions after December 15, 1987. For purposes of applying such amendment to any such distribution—

(i) for purposes of determining earnings and profits, such amendment shall be deemed to be in effect for all periods whether before, on, or after December 15, 1987, but

(ii) such amendment shall not affect the determination of whether any distribution on or before December 15, 1987, is a dividend and the amount of any reduction in accumulated earnings and profits on account of any such distribution.

(B) EXCEPTION.—The amendment made by paragraph (1) shall not apply for purposes of determining gain or loss on any disposition described in subsection (a)(2)(B) of this section.

SEC. 10223. TREATMENT OF MIRROR SUBSIDIARY TRANSACTIONS.

(a) CONSOLIDATED RETURN REGULATIONS NOT TO APPLY FOR [114] PURPOSES OF NONRECOGNITION UNDER SECTION 337.—Subsection (c) of section 337 (defining 80-percent distributee) is amended by adding at the end thereof the following new sentence: "For purposes of this section, the determination of whether any corporation is an 80-percent distributee shall be made without regard to any consolidated return regulation."

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[113] Copy read "been effect".

[114] Copy read "TO APPLY FOR PURPOSES".

(b) AMENDMENT TO SECTION 355.—Subparagraph (D) of section 355(b)(2) (relating to requirements as to active business) is amended—

(1) by amending clause (i) to read as follows:

"(i) was not acquired by any distributee corporation directly (or through 1 or more corporations, whether through the distributing corporation or otherwise) within the period described in subparagraph (B), or",

(2) by striking out "by another corporation" in clause (ii) and inserting in lieu thereof "such distributee corporation", and

(3) by adding at the end thereof the following new sentence: "For purposes of subparagraph (D), all distributee corporations which are members of the same affiliated group (as defined in section 1504(a) without regard to section 1504(b)) shall be treated as 1 distributee corporation."

(c) AMENDMENT TO SECTION 304.—Subsection (b) of section 304 (relating to redemption through use of related corporations) is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF CERTAIN INTRAGROUP TRANSACTIONS.—

"(A) IN GENERAL.—In the case of any transfer described in subsection (a) of stock of 1 member of an affiliated group to another member of such group, proper adjustments shall be made to—

101 STAT. 1330-412

"(i) the adjusted basis of any intragroup stock, and

"(ii) the earnings and profits of any member of such group,

to the extent necessary to carry out the purposes of this section.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) AFFILIATED GROUP.—The term 'affiliated group' has the meaning given such term by section 1504(a).

"(ii) INTRAGROUP STOCK.—The term 'intragroup stock' means any stock which—

"(I) is in a corporation which is a member of an affiliated group, and

"(II) is held by another member of such group."

(d) EFFECTIVE DATES.— 26 USC 304 note.

(1) IN GENERAL.—The amendments made by this section shall apply to distributions or transfers after December 15, 1987.

(2) EXCEPTIONS.—

(A) DISTRIBUTIONS.—The amendments made by this section shall not apply to any distribution after December 15, 1987, and before January 1, 1993, if—

(i) 80 percent or more of the stock of the distributing corporation was acquired by the distributee before December 15, 1987, or

(ii) 80 percent or more of the stock of the distributing corporation was acquired by the distributee before January 1, 1989, pursuant to a binding written contract or tender offer in effect on December 15, 1987. Contracts.

For purposes of the preceding sentence, stock described in section 1504(a)(4) of the Internal Revenue Code of 1986 shall not be taken into account.

(B) SECTION 304 TRANSFERS.—The amendment made by subsection (c) shall not apply to any transfer after December 15, 1987, and before January 1, 1993, if such transfer is—

(i) between corporations which are members of the same affiliated group on December 15, 1987, or

(ii) between corporations which become members of the same affiliated group before January 1, 1989, pursuant to a binding written contract or tender offer in effect on December 15, 1987. Contracts.

(C) DISTRIBUTIONS COVERED BY PRIOR TRANSITION RULE.—The amendments made by this section shall not apply to any distribution to which the amendments made by subtitle D of title VI of the Tax Reform Act of 1986 do not apply.

SEC. 10224. BENEFITS OF GRADUATED CORPORATE RATES NOT ALLOWED TO PERSONAL SERVICE CORPORATIONS.

(a) GENERAL RULE.—Subsection (b) of section 11 (relating to corporate tax rates) is amended to read as follows:

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be the sum of—

"(A) 15 percent of so much of the taxable income as does not exceed $50,000,

"(B) 25 percent of so much of the taxable income as exceeds $50,000 but does not exceed $75,000, and

101 STAT. 1330-413

"(C) 34 percent of so much of the taxable income as exceeds $75,000.

In the case of a corporation which has taxable income in excess of $100,000 for any taxable year, the amount of tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (i) 5 percent of such excess, or (ii) $11,750.

"(2) CERTAIN PERSONAL SERVICE CORPORATIONS NOT ELIGIBLE FOR GRADUATED RATES.—Notwithstanding paragraph (1), the amount of the tax imposed by subsection (a) on the taxable income of a qualified personal service corporation (as defined in section 448(d)(2)) shall be equal to 34 percent of the taxable income."

26 USC 11 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987.

SEC. 10225. AMENDMENTS TO SECTION 382.

(a) TREATMENT OF WORTHLESS STOCK.—Paragraph (4) of section 382(g) (defining ownership change) is amended by adding at the end thereof the following new subparagraph:

"(D) TREATMENT OF WORTHLESS STOCK.—If any stock held by a 50-percent shareholder is treated by such shareholder as becoming worthless during any taxable year of such shareholder and such stock is held by such shareholder as of the close of such taxable year, for purposes of determining whether an ownership change occurs after the close of such taxable year, such shareholder—

"(i) shall be treated as having acquired such stock on the 1st day of his 1st succeeding taxable year, and

"(ii) shall not be treated as having owned such stock during any prior period.

For purposes of the preceding sentence, the term '50-percent shareholder' means any person owning 50 percent or more of the stock of the corporation at any time during the 3-year period ending on the last day of the taxable year with respect to which the stock was so treated."

(b) TREATMENT OF DEPRECIATION UNDER BUILT-IN LOSS RULES.—Subparagraph (B) of section 382(h)(2) (defining recognized built-in loss) is amended by adding at the end thereof the following new sentence:

"Such term includes any amount allowable as depreciation, amortization, or depletion for any period within the recognition period except to the extent the new loss corporation establishes that the amount so allowable is not attributable to the excess described in clause (ii)."

26 USC 382 note.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply in the case of stock treated as becoming worthless in taxable years beginning after December 31, 1987.

Contracts.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply in the case of ownership changes (as defined in section 382 of the Internal Revenue Code of 1986 as amended by subsection (a)) after December 15, 1987; except that such amendment shall not apply in the case of any ownership change pursuant to a binding written contract which was in effect on December 15, 1987, and at all times thereafter before such ownership change.

SEC. 10226. LIMITATION ON USE OF PREACQUISITION LOSSES TO OFFSET BUILT-IN GAINS. 101 STAT. 1330-414

(a) GENERAL RULE.—Part V of subchapter C of chapter 1 (relating to carryovers) is amended by adding at the end thereof the following new section:

"SEC. 384. LIMITATION ON USE OF PREACQUISITION LOSSES TO OFFSET BUILT-IN GAINS. 26 USC 384.

"(a) GENERAL RULE.—

"(1) STOCK ACQUISITIONS, ETC.—If—

"(A) a corporation (hereinafter in this section referred to as the 'gain corporation') becomes a member of an affiliated group, and

"(B) such corporation has a net unrealized built-in gain,

the income of such corporation for any recognition period taxable year (to the extent attributable to recognized built-in gains) shall not be offset by any preacquisition loss of any other member of such group.

"(2) ASSET ACQUISITIONS.—If—

"(A) the assets of a corporation (hereinafter in this section referred to as the 'gain corporation') are acquired by another corporation—

"(i) in a liquidation to which section 332 applies, or

"(ii) in a reorganization described in subparagraph (A), (C), or (D) of section 368(a)(1), and

"(B) the gain corporation has a net unrealized built-in gain,

the income of the acquiring corporation for any recognition period taxable year (to the extent attributable to recognized built-in gains of the gain corporation) shall not be offset by any preacquisition loss of any corporation (other than the gain corporation).

"(b) EXCEPTION WHERE 50 PERCENT OF GAIN CORPORATION HELD.—Subsection (a) shall not apply if more than 50 percent of the stock (by vote and value) of the gain corporation was held throughout the 5-year period ending on the acquisition date—

"(1) in any case described in subsection (a)(1), by members of the affiliated group referred to in subsection (a)(1), or

"(2) in any case described in subsection (a)(2), by the acquiring corporation or members of such acquiring corporation's affiliated group.

For purposes of the preceding sentence, stock described in section 1504(a)(4) shall not be taken into account.

"(c) DEFINITIONS.—For purposes of this section—

"(1) RECOGNIZED BUILT-IN GAIN.—

"(A) IN GENERAL.—The term 'recognized built-in gain' means any gain recognized during the recognition period on the disposition of any asset except to the extent the gain corporation (or, in any case described in subsection (a)(2), the acquiring corporation) establishes that—

"(i) such asset was not held by the gain corporation on the acquisition date, or

"(ii) such gain exceeds the excess (if any) of—

"(I) the fair market value of such asset on the acquisition date, over

"(II) the adjusted basis of such asset on such date. 101 STAT. 1330-415

"(B) TREATMENT OF CERTAIN INCOME ITEMS.—Any item of income which is properly taken into account for any recognition period taxable year but which is attributable to periods before the acquisition date shall be treated as a recognized built-in gain for the taxable year in which it is properly taken into account and shall be taken into account in determining the amount of the net unrealized built-in gain.

"(C) LIMITATION.—The amount of the recognized built-in gains for any recognition period taxable year shall not exceed—

"(i) the net unrealized built-in gain, reduced by

"(ii) the recognized built-in gains for prior years ending in the recognition period which (but for this section) would have been offset by preacquisition losses.

"(2) ACQUISITION DATE.—The term 'acquisition date' means the date on which the gain corporation becomes a member of the affiliated group or, in any case described in subsection (a)(2), the date of the distribution or transfer in the liquidation or reorganization.

"(3) PREACQUISITION LOSS.—

"(A) IN GENERAL.—The term 'preacquisition loss' means—

"(i) any net operating loss carryforward to the taxable year in which the acquisition date occurs, and

"(ii) any net operating loss for the taxable year in which the acquisition date occurs to the extent such loss is allocable to the period in such year on or before the acquisition date.

Except as provided in regulations, the net operating loss shall, for purposes of clause (ii), be allocated ratably to each day in the year.

"(B) TREATMENT OF RECOGNIZED BUILT-IN LOSS.—In the case of a corporation with a net unrealized built-in loss, the term 'preacquisition loss' includes any recognized built-in loss.

"(4) OTHER DEFINITIONS.—Except as provided in regulations, the terms 'net unrealized built-in gain', 'net unrealized built-in loss', 'recognized built-in loss', 'recognition period', and 'recognition period taxable year', have the same respective meanings as when used in section 382(h), except that the acquisition date shall be taken into account in lieu of the change date.

"(d) LIMITATION ALSO TO APPLY TO EXCESS CREDITS OR NET CAPITAL LOSSES.—Rules similar to the rules of subsection (a) shall also apply in the case of any excess credit (as defined in section 383(a)(2)) or net capital loss.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations to ensure that the purposes of this section may not be circumvented through—

"(1) the use of any provision of law or regulations (including subchapter K of this chapter), or

"(2) contributions of property to the gain corporation."

(b) CLERICAL AMENDMENT.—The table of sections for part V of subchapter C of chapter 1 is amended by adding at the end thereof the following new item:

101 STAT. 1330-416

"Sec. 384. Limitation on use of preacquisition losses to offset built-in gains."

26 USC 384 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in cases where the acquisition date (as defined in section 384(c)(2) of the Internal Revenue Code of 1986 as added by this section) is after December 15, 1987; except that such amendments shall not apply in the case of any transaction pursuant to—

(1) a binding written contract in effect on or before December 15, 1987, or

(2) a letter of intent or agreement of merger signed on or before December 15, 1987.

SEC. 10227. RECAPTURE OF LIFO AMOUNT IN THE CASE OF ELECTIONS BY S CORPORATIONS.

(a) GENERAL RULE.—Section 1363 (relating to effect of election on corporations) is amended by adding at the end thereof the following new subsection:

"(d) RECAPTURE OF LIFO BENEFITS.—

"(1) IN GENERAL.—If—

"(A) an S corporation was a C corporation for the last taxable year before the first taxable year for which the election under section 1362(a) was effective, and

"(B) the corporation inventoried goods under the LIFO method for such last taxable year,

the LIFO recapture amount shall be included in the gross income of the corporation for such last taxable year (and appropriate adjustments to the basis of inventory shall be made to take into account the amount included in gross income under this paragraph).

"(2) ADDITIONAL TAX PAYABLE IN INSTALLMENTS.—

"(A) IN GENERAL.—Any increase in the tax imposed by this chapter by reason of this subsection shall be payable in 4 equal installments.

"(B) DATE FOR PAYMENT OF INSTALLMENTS.—The first installment under subparagraph (A) shall be paid on or before the due date (determined without regard to extensions) for the return of the tax imposed by this chapter for the last taxable year for which the corporation was a C corporation and the 3 succeeding installments shall be paid on or before the due date (as so determined) for the corporation's return for the 3 succeeding taxable years.

"(C) NO INTEREST FOR PERIOD OF EXTENSION.—Notwithstanding section 6601(b), for purposes of section 6601, the date prescribed for the payment of each installment under this paragraph shall be determined under this paragraph.

"(3) LIFO RECAPTURE AMOUNT.—For purposes of this subsection, the term 'LIFO recapture amount' means the amount (if any) by which—

"(A) the inventory amount of the inventory asset under the first-in, first-out method authorized by section 471, exceeds

"(B) the inventory amount of such assets under the LIFO method.

For purposes of the preceding sentence, inventory amounts shall be determined as of the close of the last taxable year referred to in paragraph (1).

"(4) OTHER DEFINITIONS.—For purposes of this subsection— 101 STAT. 1330-417

"(A) LIFO METHOD.—The term 'LIFO method' means the method authorized by section 472.

"(B) INVENTORY ASSETS.—The term 'inventory assets' means stock in trade of the corporation, or other property of a kind which would properly be included in the inventory of the corporation if on hand at the close of the taxable year.

"(C) METHOD OF DETERMINING INVENTORY AMOUNT.—The inventory amount of assets under a method authorized by section 471 shall be determined—

"(i) if the corporation uses the retail method of valuing inventories under section 472, by using such method, or

"(ii) if clause (i) does not apply, by using cost or market, whichever is lower."

(b) EFFECTIVE DATES.— 26 USC 1363 note.

(1) IN GENERAL.—Except as provided in paragraph (2) the amendment made by subsection (a) shall apply in the case of elections made after December 17, 1987.

(2) EXCEPTION.—The amendment made by subsection (a) shall not apply in the case of any election made by a corporation after December 17, 1987, and before January 1, 1989, if, on or before December 17, 1987—

(A) there was a resolution adopted by the board of directors of such corporation to make an election under subchapter S of chapter 1 of the Internal Revenue Code of 1986, or

(B) there was a ruling request with respect to the business filed with the Internal Revenue Service expressing an intent to make such an election.

SEC. 10228. EXCISE TAX ON RECEIPT OF GREENMAIL.

(a) IN GENERAL.—Subtitle E is amended by adding at the end thereof the following new chapter:

"CHAPTER 54—GREENMAIL

"Sec. 5881. Greenmail.

"SEC. 5881. GREENMAIL.

"(a) IMPOSITION OF TAX.—There is hereby imposed on any person who receives greenmail a tax equal to 50 percent of gain realized by such person on such receipt.

"(b) GREENMAIL.—For purposes of this section, the term 'greenmail' means any consideration transferred by a corporation to directly or indirectly acquire its stock from any shareholder if—

"(1) such shareholder held such stock (as determined under section 1223) for less than 2 years before entering into the agreement to make the transfer,

"(2) at some time during the 2-year period ending on the date of such acquisition—

"(A) such shareholder,

"(B) any person acting in concert with such shareholder, or

"(C) any person who is related to such shareholder or person described in subparagraph (B),

101 STAT. 1330-418

made or threatened to make a public tender offer for stock of such corporation, and

"(3) such acquisition is pursuant to an offer which was not made on the same terms to all shareholders.

For purposes of the preceding sentence, payments made in connection with, or in transactions related to, an acquisition shall be treated as paid in such acquisition.

"(c) OTHER DEFINITIONS.—For purposes of this section—

"(1) PUBLIC TENDER OFFER.—The term 'public tender offer' means any offer to purchase or otherwise acquire stock or assets in a corporation if such offer was or would be required to be filed or registered with any Federal or State agency regulating securities.

"(2) RELATED PERSON.—A person is related to another person if the relationship between such persons would result in the disallowance of losses under section 267 or 707(b).

"(d) TAX APPLIES WHETHER OR NOT GAIN RECOGNIZED.—The tax imposed by this section shall apply whether or not the gain referred to in subsection (a) is recognized."

(b) DENIAL OF INCOME TAX DEDUCTION FOR GREENMAIL TAX.—Paragraph (6) of section 275(a) is amended by striking out "and 46" and inserting in lieu thereof "46, and 54".

(c) CLERICAL AMENDMENT.—The table of chapters for subtitle E is amended by adding at the end thereof the following new item:

"CHAPTER 54. GREENMAIL."

26 USC 5881 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to consideration received after the date of the enactment of this Act in taxable years ending after such date; except that such amendments shall not apply in the case of any acquisition pursuant to a written binding contract in effect on December 15, 1987, and at all times thereafter before the acquisition.

PART IV—FOREIGN TAX PROVISIONS

SEC. 10231. DENIAL OF FOREIGN TAX CREDIT FOR TAXES PAID OR ACCRUED TO SOUTH AFRICA.

(a) GENERAL RULE.—Paragraph (2) of section 901(j) (relating to denial of foreign tax credit, etc., with respect to certain foreign countries) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR SOUTH AFRICA.—

"(i) IN GENERAL.—In addition to any period during which this subsection would otherwise apply to South Africa, this subsection shall apply to South Africa during the period—

"(I) beginning on January 1, 1988, and

"(II) ending on the date the Secretary of State certifies to the Secretary of the Treasury that South Africa meets the requirements of section 311(a) of the Comprehensive Anti-Apartheid Act of 1986 (as in effect on the date of the enactment of this subparagraph).

Effective date.
Termination date.

"(ii) SOUTH AFRICA DEFINED.—For purposes of clause (i), the term 'South Africa' has the meaning given to such term by paragraph (6) of section 3 of the Comprehensive Anti-Apartheid Act of 1986 (as so in effect)." 101 STAT. 1330-419

(b) TECHNICAL AMENDMENTS.—Paragraph (1) of section 901(j) is amended—

(1) by striking out "to which" in subparagraph (A) and inserting in lieu thereof "during which", and

(2) by striking out "any country so identified" and inserting in lieu thereof "such country".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987. 26 USC 901 note.

PART V—INSURANCE PROVISIONS

SEC. 10241. INTEREST RATE USED IN COMPUTING TAX RESERVES FOR LIFE INSURANCE COMPANIES MAY NOT BE LESS THAN APPLICABLE FEDERAL RATE.

(a) IN GENERAL.—Subparagraph (B) of section 807(d)(2) (relating to method of computing reserves for purposes of determining income) is amended to read as follows:

"(B) the greater of—

"(i) the applicable Federal interest rate, or

"(ii) the prevailing State assumed interest rate, and".

(b) APPLICABLE FEDERAL INTEREST RATE.—

(1) IN GENERAL.—Paragraph (4) of section 807(d) (defining State assumed interest rate) is amended to read as follows:

"(4) APPLICABLE FEDERAL INTEREST RATE; PREVAILING STATE ASSUMED INTEREST RATE.—For purposes of this subsection—

"(A) APPLICABLE FEDERAL INTEREST RATE.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'applicable Federal interest rate' means the annual rate determined by the Secretary under section 846(c)(2) for the calendar year in which the contract was issued.

"(ii) ELECTION TO RECOMPUTE FEDERAL INTEREST RATE EVERY 5 YEARS.—

"(I) IN GENERAL.—In computing the amount of the reserve with respect to any contract to which an election under this clause applies for periods during any recomputation period, the applicable Federal interest rate shall be the annual rate

determined by the Secretary under section 846(c)(2) for the 1st year of such period. No change in the applicable Federal interest rate shall be made under the preceding sentence unless such change would equal or exceed ½ of 1 percentage point.

"(II) RECOMPUTATION PERIOD.—For purposes of subclause (I), the term 'recomputation period' means, with respect to any contract, the 5 calendar year period beginning with the 5th calendar year beginning after the calendar year in which the contract was issued (and each subsequent 5 calendar year period).

Contracts.

"(III) ELECTION.—An election under this clause shall apply to all contracts issued during the calendar year for which the election was made or during any subsequent calendar year unless such election is revoked with the consent of the Secretary.

101 STAT. 1330-420

"(IV) SPREAD NOT AVAILABLE.—Subsection (f) shall not apply to any adjustment required under this clause.

"(B) PREVAILING STATE ASSUMED INTEREST RATE.—

"(i) IN GENERAL.—The term 'prevailing State assumed interest rate' means, with respect to any contract, the highest assumed interest rate permitted to be used in computing life insurance reserves for insurance contracts or annuity contracts (as the case may be) under the insurance laws of at least 26 States. For purposes of the preceding sentence, the effect of nonforfeiture laws of a State on interest rates for reserves shall not be taken into account.

Contracts.

"(ii) WHEN RATE DETERMINED.—The prevailing State assumed interest rate with respect to any contract shall be determined as of the beginning of the calendar year in which the contract was issued."

(2) TECHNICAL AMENDMENTS.—

(A) The third to the last sentence of section 807(c) is amended by striking out "the higher of" and all that follows and inserting in lieu thereof "whichever of the following rates is the highest as of the time such obligation first did not involve life, accident, or health contingencies: the applicable Federal interest rate under subsection (d)(2)(B)(i), the prevailing State assumed interest rate under subsection (d)(2)(B)(ii), or the rate of interest assumed by the company in determining the guaranteed benefit."

(B) Paragraph (2) of section 812(b) is amended—

(i) by striking out "at the prevailing State assumed rate or, where such rate is not used, another appropriate rate" and inserting in lieu thereof "at the greater of the prevailing State assumed rate or the applicable Federal interest rate", and

(ii) by adding at the end thereof the following new sentence:

"In any case where the prevailing State assumed rate is not used, another appropriate rate shall be treated as the prevailing State assumed rate for purposes of subparagraph (A)."

26 USC 807 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts issued in taxable years beginning after December 31, 1987.

SEC. 10242. TREATMENT OF FOREIGN INSURANCE COMPANIES.

(a) IN GENERAL.—Section 842 (relating to foreign corporations carrying on insurance business) is amended to read as follows:

26 USC 842.

"SEC. 842. FOREIGN COMPANIES CARRYING ON INSURANCE BUSINESS.

"(a) TAXATION UNDER THIS SUBCHAPTER.—If a foreign company carrying on an insurance business within the United States would

qualify under part I or II of this subchapter for the taxable year if (without regard to income not effectively connected with the conduct of any trade or business within the United States) it were a domestic corporation, such company shall be taxable under such part on its income effectively connected with its conduct of any trade or business within the United States. With respect to the remainder of its income which is from sources within the United States, such a foreign company shall be taxable as provided in section 881. 101 STAT. 1330-421

"(b) MINIMUM EFFECTIVELY CONNECTED NET INVESTMENT INCOME.—

"(1) IN GENERAL.—In the case of a foreign company taxable under part I or II of this subchapter for the taxable year, its net investment income for such year which is effectively connected with the conduct of an insurance business within the United States shall be not less than the product of—

"(A) the required United States [115] assets of such company, and

"(B) the domestic investment yield applicable to such company for such year.

"(2) REQUIRED U.S. ASSETS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the required United States[115] assets of any foreign company for any taxable year is an amount equal to the product of—

"(i) the mean of such foreign company's total insurance liabilities on United States business, and

"(ii) the domestic asset/liability percentage applicable to such foreign company for such year.

"(B) TOTAL INSURANCE LIABILITIES.—For purposes of this paragraph—

"(i) COMPANIES TAXABLE UNDER PART I [116].—In the case of a company taxable under part I, the term 'total insurance liabilities' means the sum of the total reserves (as defined in section 816(c)) plus (to the extent not included in total reserves) the items referred to in paragraphs (3), (4), (5), and (6) of section 807(c).

"(ii) COMPANIES TAXABLE UNDER PART [117] II.—In the case of a company taxable under part II, the term 'total insurance liabilities' means the sum of unearned premiums and unpaid losses.

"(C) DOMESTIC ASSET/LIABILITY PERCENTAGE.—The domestic asset/liability percentage applicable for purposes of subparagraph (A)(ii) to any foreign company for any taxable year is a percentage determined by the Secretary on the basis of a ratio—

"(i) the numerator of which is the mean of the assets of domestic insurance companies taxable under the same part of this subchapter as such foreign company, and

"(ii) the denominator of which is the mean of the total insurance liabilities of the same companies.

"(3) DOMESTIC INVESTMENT YIELD.—The domestic investment yield applicable for purposes of paragraph (1)(B) to any foreign company for any taxable year is the percentage determined by the Secretary on the basis of a ratio—

"(A) the numerator of which is the net investment income of domestic insurance companies taxable under the same part of this subchapter as such foreign company, and

"(B) the denominator of which is the mean of the assets of the same companies held for the production of such income.

"(4) ELECTION TO USE WORLDWIDE YIELD.—

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[115] Copy read "U.S.".
[116] Copy read "PART I.—".
[117] Copy read "PART II.—".

101 STAT. 1330-422

"(A) IN GENERAL.—If the foreign company makes an election under this paragraph, such company's worldwide current investment yield shall be taken into account in lieu of the domestic investment yield for purposes of paragraph (1)(B).

"(B) WORLDWIDE CURRENT INVESTMENT YIELD.—For purposes of subparagraph (A), the term 'worldwide current investment yield' means the percentage obtained by dividing—

"(i) the net investment income of the company from all sources, by

"(ii) the mean of all assets of the company (whether or not held in the United States) held for the production of investment income.

"(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(5) NET INVESTMENT INCOME.—For purposes of this subsection, the term 'net investment income' means—

"(A) gross investment income (within the meaning of section 834(b)), reduced by

"(B) expenses allocable to such income.

"(c) SPECIAL RULES FOR PURPOSES OF SUBSECTION (b).—

"(1) COORDINATION WITH SMALL LIFE INSURANCE COMPANY DEDUCTION.—In the case of a foreign company taxable under part I, subsection (b) shall be applied before computing the small life insurance company deduction.

"(2) REDUCTION IN SECTION 881 TAXES.—

"(A) IN GENERAL.—The tax under section 881 (determined without regard to this paragraph) shall be reduced (but not below zero) by an amount which bears the same ratio to such tax as—

"(i) the amount of the increase in effectively connected income of the company resulting from subsection (b), bears to

"(ii) the amount which would be subject to tax under section 881 if the amount taxable under such section were determined without regard to sections 103 and 894.

"(B) LIMITATION ON REDUCTION.—The reduction under subparagraph (A) shall not exceed the increase in taxes under part I or II (as the case may be) by reason of the increase in effectively connected income of the company resulting from subsection (b).

"(3) ADJUSTMENT TO LIMITATION ON DEDUCTION FOR POLICYHOLDER DIVIDENDS IN THE CASE OF FOREIGN MUTUAL LIFE INSURANCE COMPANIES.—For purposes of section 809, the equity base of any foreign mutual life insurance company as of the close of any taxable year shall be increased by the excess of—

"(A) the required United States [118] assets of the company (determined under subsection (b)(2)), over

"(B) the mean of the assets held in the United States during the taxable year.

101 STAT. 1330-423

"(4) DATA USED IN DETERMINING DOMESTIC ASSET/LIABILITY PERCENTAGES AND DOMESTIC INVESTMENT YEILDS.—Each domestic asset/liability percentage, and each domestic investment yield, for any taxable year shall be based on such representative data with respect to domestic insurance companies for the second preceding taxable year as the Secretary considers appropriate.

[118] Copy read "U.S.".

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) providing for the proper treatment of segregated asset accounts,

"(2) providing for proper adjustments in succeeding taxable years where the company's actual net investment income for any taxable year which is effectively connected with the conduct of an insurance business within the United States exceeds the amount required under subsection (b)(1), and

"(3) providing for the proper treatment of investments in domestic subsidiaries."

(b) PART II COMPANIES SUBJECT TO SAME EFFECTIVELY CONNECTED INCOME RULE AS PART I COMPANIES.—Subparagraph (C) of section 864(c)(4) (relating to income from sources without the United States) is amended by inserting "or part II" after "part I".

(c) REPEAL OF SECTION [119] 813.—

(1) Section 813 (relating to foreign life insurance companies) is hereby repealed.

(2) Subsection (h) of section 816 is amended by striking out "section 813(a)(4)(B)" and inserting in lieu thereof "section 842(c)(1)(A)".

(3) Paragraph (2) of section 4371 is amended by striking out "section 813" and inserting in lieu thereof "section 842(b)".

(4) The table of sections for part I of subchapter L of chapter 1 is amended by striking out the item relating to section 813.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987. 26 USC 816 note.

SEC. 10243. TREATMENT OF MUTUAL LIFE INSURANCE COMPANY POLICYHOLDER DIVIDENDS FOR PURPOSES OF BOOK PREFERENCE.

(a) GENERAL RULE.—Paragraph (2) of section 56(f) (defining adjusted net book income) is amended by redesignating subparagraph (H) as subparagraph (I) and by inserting after subparagraph (G) the following new subparagraph:

"(H) SPECIAL RULES FOR LIFE INSURANCE COMPANIES.—

"(i) POLICYHOLDER DIVIDENDS OF MUTUAL COMPANIES.—In determining the adjusted net book income of any mutual life insurance company, a reduction shall be allowed for policyholder dividends with respect to any taxable year only to the extent such dividends exceed the differential earnings amount determined for such taxable year under section 809.

"(ii) OTHER ADJUSTMENTS.—To the extent provided by the Secretary, such additional adjustments shall be made as may be necessary to make the calculation of adjusted net book income in the case of any life insurance company consistent with the calculation of adjusted net book income generally."

101 STAT. 1330-424

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987. 26 USC 56 note.

SEC. 10244. CERTAIN INSURANCE SYNDICATES.

(a) STUDY.—The Secretary of the Treasury (or his delegate) shall conduct a study of the proper Federal income tax treatment of income earned by members of insurance or reinsurance syndicates. Not later than April 1, 1988, the Secretary shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the results of the study conducted under this subsection, together with such recommendations as he may deem advisable. Reports.

[119] Copy read "SECTION 813—".

(b) RENEGOTIATION OF CLOSING AGREEMENT.—Not later than January 1, 1990, the Secretary of the Treasury (or his delegate) shall renegotiate the closing agreement with the underwriters participating in certain insurance or reinsurance syndicates which was signed by the Internal Revenue Service on April 1, 1980, to implement the conclusions reached in the study conducted under subsection (a).

Subtitle C—Estimated Tax Provisions

SEC. 10301. REVISION OF CORPORATE ESTIMATED TAX PROVISIONS.

(a) GENERAL RULE.—Section 6655 (relating to failure by corporation to pay estimated income tax) is amended to read as follows:

26 USC 6655.

"SEC. 6655. FAILURE BY CORPORATION TO PAY ESTIMATED INCOME TAX.

"(a) ADDITION TO TAX.—Except as otherwise provided in this section, in the case of any underpayment of estimated tax by a corporation, there shall be added to the tax under chapter 1 for the taxable year an amount determined by applying—

"(1) the underpayment rate established under section 6621,

"(2) to the amount of the underpayment,

"(3) for the period of the underpayment.

"(b) AMOUNT OF UNDERPAYMENT; PERIOD OF UNDERPAYMENT.—For purposes of subsection (a)—

"(1) AMOUNT.—The amount of the underpayment shall be the excess of—

"(A) the required installment, over

"(B) the amount (if any) of the installment paid on or before the due date for the installment.

"(2) PERIOD OF UNDERPAYMENT.—The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier—

"(A) the 15th day of the 3rd month following the close of the taxable year, or

"(B) with respect to any portion of the underpayment, the date on which such portion is paid.

"(3) ORDER OF CREDITING PAYMENTS.—For purposes of paragraph (2)(B), a payment of estimated tax shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(c) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this section—

101 STAT. 1330-425

"(1) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each taxable year.

"(2) TIME FOR PAYMENT OF INSTALLMENTS.—

"In the case of the following required installments:	The due date is:
1st	April 15
2nd	June 15
3rd	September 15
4th	December 15.

"(d) AMOUNT OF REQUIRED INSTALLMENTS.—For purposes of this section—

"(1) AMOUNT.—

"(A) IN GENERAL.—Except as otherwise provided in this section, the amount of any required installment shall be 25 percent of the required annual payment.

"(B) REQUIRED ANNUAL PAYMENT.—Except as otherwise provided in this subsection, the term 'required annual payment' means the lesser of—

"(i) 90 percent of the tax shown on the return for the taxable year (or, if no return is filed, 90 percent of the tax for such year), or

"(ii) 100 percent of the tax shown on the return of the corporation for the preceding taxable year.

Clause (ii) shall not apply if the preceding taxable year was not a taxable year of 12 months, or the corporation did not file a return for such preceding taxable year showing a liability for tax.

"(2) LARGE CORPORATIONS REQUIRED TO PAY 90 PERCENT OF CURRENT YEAR TAX.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), clause (ii) of paragraph (1)(B) shall not apply in the case of a large corporation.

"(B) MAY USE LAST YEAR'S TAX FOR 1ST INSTALLMENT.—Subparagraph (A) shall not apply for purposes of determining the amount of the 1st required installment for any taxable year. Any reduction in such 1st installment by reason of the preceding sentence shall be recaptured by increasing the amount of the next required installment determined under paragraph (1) by the amount of such reduction.

"(e) LOWER REQUIRED INSTALLMENT WHERE ANNUALIZED INCOME INSTALLMENT OR ADJUSTED SEASONAL INSTALLMENT IS LESS THAN AMOUNT DETERMINED UNDER SUBSECTION (d).—

"(1) IN GENERAL.—In the case of any required installment, if the corporation establishes that the annualized income installment or the adjusted seasonal installment is less than the amount determined under section (d)(1) (as modified by subsection (d)(2))—

"(A) the amount of such required installment shall be the annualized income installment (or, if lesser, the adjusted seasonal installment), and

"(B) any reduction in a required installment resulting from the application of this paragraph shall be recaptured by increasing the amount of the next required installment determined under subsection (d)(1) (as so modified) by the amount of such reduction (and by increasing subsequent required installments to the extent that the reduction has not previously been recaptured under this subparagraph).

101 STAT. 1330-426

A reduction shall be treated as recaptured for purposes of subparagraph (B) if 90 percent of the reduction is recaptured.

"(2) DETERMINATION OF ANNUALIZED INCOME INSTALLMENT.—

"(A) IN GENERAL.—In the case of any required installment, the annualized income installment is the excess (if any) of—

"(i) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income, alternative minimum taxable income, and modified alternative minimum taxable income—

"(I) for the first 3 months of the taxable year, in the case of the 1st required installment,

"(II) for the first 3 months or for the first 5 months of the taxable year, in the case of the 2nd required installment,

"(III) for the first 6 months or for the first 8 months of the taxable year in the case of the 3rd required installment, and

"(IV) for the first 9 months or for the first 11 months of the taxable year, in the case of the 4th required installment, over

"(ii) the aggregate amount of any prior required installments for the taxable year.

"(B) SPECIAL RULES.—For purposes of this paragraph—

"(i) ANNUALIZATION.—The taxable income, alternative minimum taxable income, and modified alternative minimum taxable income shall be placed on an annualized basis under regulations prescribed by the Secretary.

"(ii) APPLICABLE PERCENTAGE.—

"In the case of the following required installments:	The applicable percentage is:
1st	22.5
2nd	45
3rd	67.5
4th	90

"(iii) MODIFIED ALTERNATIVE MINIMUM TAXABLE INCOME.—The term 'modified alternative minimum taxable income' has the meaning given to such term by section 59A(b).

"(3) DETERMINATION OF ADJUSTED SEASONAL INSTALLMENT.—

"(A) IN GENERAL.—In the case of any required installment, the amount of the adjusted seasonal installment is the excess (if any) of—

"(i) 90 percent of the amount determined under subparagraph (C), over

"(ii) the aggregate amount of all prior required installments for the taxable year.

"(B) LIMITATION ON APPLICATION OF PARAGRAPH.—This paragraph shall apply only if the base period percentage for any 6 consecutive months of the taxable year equals or exceeds 70 percent.

101 STAT. 1330-427

"(C) DETERMINATION OF AMOUNT.—The amount determined under this subparagraph for any installment shall be determined in the following manner—

"(i) take the taxable income for all months during the taxable year preceding the filing month,

"(ii) divide [120] such amount by the base period percentage for all months during the taxable year preceding the filing month,

"(iii) determine the tax on the amount determined under clause (ii), and

"(iv) multiply the tax computed under clause (iii) by the base period percentage for the filing month and all months during the taxable year preceding the filing month.

"(D) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) BASE PERIOD PERCENTAGE.—The base period percentage for any period of months shall be the average percent which the taxable income for the corresponding months in each of the 3 preceding taxable years bears to the taxable income for the 3 preceding taxable years.

"(ii) FILING MONTH.—The term 'filing month' means the month in which the installment is required to be paid.

Regulations

"(iii) REORGANIZATION, ETC.—The Secretary may by regulations provide for the determination of the base period percentage in the case of reorganizations, new corporations, and other similar circumstances.

"(f) EXCEPTION WHERE TAX IS [121] SMALL AMOUNT.—No addition to tax shall be imposed under subsection (a) for any taxable year if the tax shown on the return for such taxable year (or, if no return is filed, the tax) is less than $500.

"(g) DEFINITIONS AND SPECIAL RULES.—

"(1) TAX.—For purposes of this section, the term 'tax' means the excess of—

"(A) the sum of—

"(i) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever applies,

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[120] Copy read "divided".
[121] Copy read "is".

"(ii) the tax imposed by section 55,
"(iii) the tax imposed by section 59A, plus
"(iv) the tax imposed by section 887, over
"(B) the sum of—
"(i) the credits against tax provided by part IV of subchapter A of chapter 1, plus
"(ii) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986 (determined without regard to section 4995(a)(4)(B)).

For purposes of the preceding sentence, in the case of a foreign corporation subject to taxation under section 11 or 1201(a), or under subchapter L of chapter 1, the tax imposed by section 881 shall be treated as a tax imposed by section 11.

"(2) LARGE CORPORATION.— 101 STAT. 1330-428

"(A) IN GENERAL.—For purposes of this section, the term 'large corporation' means any corporation if such corporation (or any predecessor corporation) had taxable income of $1,000,000 or more for any taxable year during the testing period.

"(B) RULES FOR APPLYING SUBPARAGRAPH (A).—

"(i) TESTING PERIOD.—For purposes of subparagraph (A), the term 'testing period' means the 3 taxable years immediately preceding the taxable year involved.

"(ii) MEMBERS OF CONTROLLED GROUP.—For purposes of applying subparagraph (A) to any taxable year in the testing period with respect to corporations which are component members of a controlled group of corporations for such taxable year, the $1,000,000 amount specified in subparagraph (A) shall be divided among such members under rules similar to the rules of section 1561.

"(iii) CERTAIN CARRYBACKS AND CARRYOVERS NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), taxable income shall be determined without regard to any amount carried to the taxable year under section 172 or 1212(a).

"(3) CERTAIN TAX-EXEMPT ORGANIZATIONS.—For purposes of this section—

"(A) Any organization subject to the tax imposed by section 511, and any private foundation, shall be treated as a corporation subject to tax under section 11.

"(B) Any tax imposed by section 511, and any tax imposed by section 1 or 4940 on a private foundation, shall be treated as a tax imposed by section 11.

"(C) Any reference to taxable income shall be treated as including a reference to unrelated business taxable income or net investment income (as the case may be).

In the case of any organization described in subparagraph (A), subsection (b)(2)(A) shall be applied by substituting '5th month' for '3rd month'.

"(h) EXCESSIVE ADJUSTMENT UNDER SECTION 6425.—

"(1) ADDITION TO TAX.—If the amount of an adjustment under section 6425 made before the 15th day of the 3rd month following the close of the taxable year is excessive, there shall be added to the tax under chapter 1 for the taxable year an amount determined at the underpayment rate established under section 6621 upon the excessive amount from the date on which the credit is allowed or the refund is paid to such 15th day.

"(2) EXCESSIVE AMOUNT.—For purposes of paragraph (1), the excessive amount is equal to the amount of the adjustment or (if smaller) the amount by which—

"(A) the income tax liability (as defined in section 6425(c)) for the taxable year as shown on the return for the taxable year, exceeds

"(B) the estimated income tax paid during the taxable year, reduced by the amount of the adjustment.

"(i) FISCAL YEARS AND SHORT YEARS.—

"(1) FISCAL YEARS.—In applying this section to a taxable year beginning on any date other than January 1, there shall be substituted, for the months specified in this section, the months which correspond thereto.

101 STAT. 1330-429

"(2) SHORT TAXABLE YEAR.—This section shall be applied to taxable years of less than 12 months in accordance with regulations prescribed by the Secretary.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 6154 of such Code is hereby repealed.

(2) Subparagraph (C) of section 585(c)(3) of such Code is amended by striking out "section 6655(d)(3)" and inserting in lieu thereof "section 6655(e)(2)(A)(i)".

(3) Paragraph (1) of section 6201(b) of such Code is amended by striking out "section 6154 or 6654" and inserting in lieu thereof "section 6654 or 6655".

(4) Subsection (c) of section 6425 of such Code is amended by striking out "section 6655(g)" and inserting in lieu thereof "section 6655(h)".

(5) Subsection (h) of section 6601 of such Code is amended by striking out "section 6154 or 6654" and inserting in lieu thereof "section 6654 or 6655".

(6) Subsection (e) of section 6651 of such Code is amended by striking out "section 6154 or 6654" and inserting in lieu thereof "section 6654 or 6655".

(7) The table of sections for subchapter A of chapter 62 of such Code is amended by striking out the item relating to section 6154.

26 USC 585 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

SEC. 10302. REVISED WITHHOLDING CERTIFICATES REQUIRED TO BE PUT INTO EFFECT MORE PROMPTLY.

(a) GENERAL RULE.—Subparagraph (B) of section 3402(f)(3) (relating to when certificate takes effect) is amended to read as follows:

"(B) FURNISHED TO TAKE PLACE OF EXISTING CERTIFICATE.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), a withholding exemption certificate furnished to the employer in cases in which a previous such certificate is in effect shall take effect as of the beginning of the 1st payroll period ending (or the 1st payment of wages made without regard to a payroll period) on or after the 30th day after the day on which such certificate is so furnished.

"(ii) EMPLOYER MAY ELECT EARLIER EFFECTIVE DATE.—At the election of the employer, a certificate described in clause (i) may be made effective beginning with any payment of wages made on or after the day on which the certificate is so furnished and before the 30th day referred to in clause (i).

"(iii) CHANGE OF STATUS WHICH AFFECTS NEXT YEAR.—Any certificate furnished pursuant to paragraph (2)(C) shall not take effect, and may not be made effective, with respect to any payment of wages made in the calendar year in which the certificate is furnished."

26 USC 3402 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to certificates furnished after the day 30 days after the date of the enactment of this Act.

SEC. 10303. ESTIMATED TAX PENALTIES FOR 1987. 101 STAT. 1330-430

(a) DELAY OF INCREASE IN CURRENT YEAR LIABILITY TEST FOR INDIVIDUALS.—Notwithstanding section 1541(c) of the Tax Reform Act of 1986, the amendments made by section 1541 of such Act shall apply only to taxable years beginning after December 31, 1987. 26 USC 6654 note.

(b) CORPORATE PROVISIONS.—

(1) RATIFICATION OF SECRETARIAL WAIVER.—The Congress hereby ratifies the safe harbor provided by paragraph (b) of the Treasury Temporary Regulation 1.6655-2T.

(2) CORPORATIONS ALSO MAY USE 1986 TAX TO DETERMINE AMOUNT OF CERTAIN ESTIMATED TAX INSTALLMENTS DUE ON OR BEFORE JUNE 15, 1987.— 26 USC 6655 note.

(A) IN GENERAL.—In the case of a large corporation, no addition to tax shall be imposed by section 6655 of the Internal Revenue Code of 1986 with respect to any underpayment of an estimated tax installment to which this subsection applies if no addition would be imposed with respect to such underpayment by reason of section 6655(d)(1) of such Code if such corporation were not a large corporation. The preceding sentence shall apply only to the extent the underpayment is paid on or before the last date prescribed for payment of the most recent installment of estimated tax due on or before September 15, 1987.

(B) INSTALLMENT TO WHICH SUBSECTION APPLIES.—This subsection applies to any installment of estimated tax for a taxable year beginning after December 31, 1986, which is due on or before June 15, 1987.

(C) LARGE CORPORATION.—For purposes of this subsection, the term "large corporation" has the meaning given such term by section 6655(i)(2) of such Code (as in effect on the day before the date of the enactment of this Act).

Subtitle D—Estate and Gift Tax Provisions

PART I—GENERAL PROVISIONS

SEC. 10401. 5-YEAR EXTENSION OF EXISTING RATES; PHASEOUT OF BENEFITS OF EXISTING RATES AND UNIFIED CREDIT.

(a) 5-YEAR EXTENSION OF GRADUATED RATES.—Paragraph (2) of section 2001(c) (relating to phasein of 50 percent maximum rate) is amended—

(1) by striking out "1988" in subparagraph (A) and inserting in lieu thereof "1993",

(2) by striking out "in 1984, 1985, 1986, or 1987" in the text of subparagraph (D) and inserting in lieu thereof "after 1983 and before 1993", and

(3) by amending the heading of subparagraph (D) to read as follows:

"(D) AFTER 1983 AND BEFORE 1993.—".

(b) PHASEOUT OF BENEFITS OF GRADUATED RATES AND UNIFIED CREDIT.—

(1) IN GENERAL.—Subsection (c) of section 2001 is amended by adding at the end thereof the following new paragraph:

"(3) PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—The tentative tax determined under paragraph (1) shall be increased by an amount equal to 5 percent of so much of the amount (with 101 STAT. 1330-431 respect to which the tentative tax is to be computed) as exceeds $10,000,000 but does not exceed $21,040,000 ($18,340,000 in the case of decedents dying, and gifts made, after 1992)."

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (b) of section 2001 is amended—

(i) by striking out "in accordance with the rate schedule set forth in subsection (c)" in paragraph (1) and inserting in lieu thereof "under subsection (c)", and

(ii) by striking out "the rate schedule set forth in subsection (c) (as in effect at the decedent's death)" in paragraph (2) and inserting in lieu thereof "the provisions of subsection (c) (as in effect at the decedent's death)".

(B) Subsection (a) of section 2502 is amended—

(i) by striking out "in accordance with the rate schedule set forth in section 2001(c)" in paragraph (1) and inserting in lieu thereof "under section 2001(c)", and

(ii) by striking out "in accordance with such rate schedule" in paragraph (2) and inserting in lieu thereof "under such section".

26 USC 2001 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of decedents dying, and gifts made, after December 31, 1987.

SEC. 10402. INCLUSION RELATED TO VALUATION FREEZES.

(a) IN GENERAL.—Section 2036 (relating to transfers with retained life estate) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) INCLUSION RELATED TO VALUATION FREEZES.—

"(1) IN GENERAL.—For purposes of subsection (a), if—

"(A) any person holds a substantial interest in an enterprise, and

"(B) such person in effect transfers after December 17, 1987, property having a disproportionately large share of the potential appreciation in such person's interest in the enterprise while retaining a disproportionately large share in the income of, or rights in, the enterprise,

then the retention of the retained interest shall be considered to be a retention of the enjoyment of the transferred property.

"(2) SPECIAL RULE FOR SALES TO FAMILY MEMBERS.—The exception contained in subsection (a) for a bona fide sale shall not apply to a transfer described in paragraph (1) if such transfer is to a member of the transferor's family.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) SUBSTANTIAL INTEREST.—A person holds a substantial interest in an enterprise if such person owns (directly or indirectly) 10 percent or more of the voting power or income stream, or both, in such enterprise. For purposes of the preceding sentence, an individual shall be treated as owning any interest in an enterprise which is owned (directly or indirectly) by any member of such individual's family.

"(B) FAMILY.—The term 'family' means, with respect to any individual, such individual's spouse, any lineal descendant of such individual or of such individual's spouse, any parent or grandparent of such individual, and any spouse of any of the foregoing. For purposes of the preceding sentence, a relationship by legal adoption shall be treated as a relationship by blood.

101 STAT. 1330-432

"(C) TREATMENT OF SPOUSE.—An individual and such individual's spouse shall be treated as 1 person.

"(4) COORDINATION WITH SECTION 2035.—For purposes of applying section 2035, any transfer of the retained interest referred to in paragraph (1) shall be treated as a transfer of an interest in the transferred property referred to in paragraph (1).

"(5) COORDINATION WITH SECTION 2043.—In lieu of applying section 2043, appropriate adjustments shall be made for the value of the retained interest." [122]

[122] Copy read "interest.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to estates of decedents dying after December 31, 1987, but only in the case of property transferred after December 17, 1987. 26 USC 2036 note.

PART II—ESTATE TAX PROVISIONS RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 10411. CONGRESSIONAL CLARIFICATION OF ESTATE TAX DEDUCTION FOR SALES OF EMPLOYER SECURITIES.

(a) INTENT OF CONGRESS IN ENACTING SECTION 2057 OF THE INTERNAL REVENUE CODE OF 1986.—Section 2057 (relating to sales of employer securities to employee stock ownership plans or worker-owned cooperatives) is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and by inserting after subsection (c) the following new subsection:

"(d) QUALIFIED PROCEEDS FROM QUALIFIED SALES.—

"(1) IN GENERAL.—For purposes of this section, the proceeds of a sale of employer securities by an executor to an employee stock ownership plan or an eligible worker-owned cooperative shall not be treated as qualified proceeds from a qualified sale unless—

"(A) the decedent directly owned the securities immediately before death, and

"(B) after the sale, the employer securities—

"(i) are allocated to participants, or

"(ii) are held for future allocation in connection with—

"(I) an exempt loan under the rules of section 4975, or

"(II) a transfer of assets under the rules of section 4980(c)(3).

"(2) NO SUBSTITUTION PERMITTED.—For purposes of paragraph (1)(B), except in the case of a bona fide business transaction (e.g., a substitution of employer securities in connection with a merger of employers), employer securities shall not be treated as allocated or held for future allocation to the extent that such securities are allocated or held for future allocation in substitution of other employer securities that had been allocated or held for future allocation."

101 STAT. 1330-433

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the amendments made by section 1172 of the Tax Reform Act of 1986. 26 USC 2057 note.

SEC. 10412. MODIFICATIONS OF ESTATE TAX DEDUCTION FOR SALE OF EMPLOYER SECURITIES.

(a) IN GENERAL.—Section 2057 (relating to estate tax deduction for sales of employer securities to employee stock ownership plans or worker-owned cooperatives) is amended to read as follows:

"SEC. 2057. SALES OF EMPLOYER SECURITIES TO EMPLOYEE STOCK OWNERSHIP PLANS OR WORKER-OWNED COOPERATIVES.

"(a) GENERAL RULE.—For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to 50 percent of the proceeds of any sale of any qualified employer securities to—

"(1) an employee stock ownership plan, or

"(2) an eligible worker-owned cooperative.

"(b) LIMITATIONS.—

"(1) MAXIMUM REDUCTION IN TAX LIABILITY.—The amount allowable as a deduction under subsection (a) shall not exceed the amount which would result in an aggregate reduction in the tax imposed by section 2001 (determined without regard to any credit allowable against such tax) equal to $750,000.

"(2) DEDUCTION SHALL NOT EXCEED 50 PERCENT OF TAXABLE ESTATE.—The amount of the deduction allowable under subsection (a) shall not exceed 50 percent of the taxable estate (determined without regard to this section).

"(c) LIMITATIONS ON PROCEEDS WHICH MAY BE TAKEN INTO ACCOUNT.—

"(1) DISPOSITIONS BY PLAN OR COOPERATIVE WITHIN 1 YEAR OF SALE.—

"(A) IN GENERAL.—Proceeds from a sale which are taken into account under subsection (a) shall be reduced (but not below zero) by the net sale amount.

"(B) NET SALE AMOUNT.—For purposes of subparagraph (A), the term 'net sale amount' means the excess (if any) of—

"(i) the proceeds of the plan or cooperative from the disposition of employer securities during the 1-year period immediately preceding such sale, over

"(ii) the cost of employer securities purchased by such plan or cooperative during such 1-year period.

"(C) EXCEPTIONS.—For purposes of subparagraph (B)(i), there shall not be taken into account any proceeds of a plan or cooperative from a disposition described in section 4978A(e).

"(D) AGGREGATION RULES.—For purposes of this paragraph, all employee stock ownership plans maintained by an employer shall be treated as 1 plan.

"(2) SECURITIES MUST BE ACQUIRED BY PLAN FROM ASSETS WHICH ARE NOT TRANSFERRED ASSETS.—

"(A) IN GENERAL.—Proceeds from a sale shall not be taken into account under subsection (a) to the extent that such proceeds (as reduced under paragraph (1)) are attributable to transferred assets. For purposes of the preceding sentence, all assets of a plan or cooperative (other than qualified employer securities) shall be treated as first acquired out of transferred assets.

101 STAT. 1330-434

"(B) TRANSFERRED ASSETS.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'transferred assets' means assets of an employee stock ownership plan which—

"(I) are attributable to assets held by a plan exempt from tax under section 501(a) and meeting the requirements of section 401(a) (other than an employee stock ownership plan of the employer), or

"(II) were held by the plan when it was not an employee stock ownership plan.

"(ii) EXCEPTION FOR ASSETS HELD ON FEBRUARY 26, 1987.—The term 'transferred assets' shall not include any asset held by the employee stock ownership plan on February 26, 1987.

"(iii) SECRETARIAL AUTHORITY TO WAIVE TREATMENT AS TRANSFERRED ASSET.—The Secretary may provide that assets or a class of assets shall not be treated as transferred assets if the Secretary finds such treatment is not necessary to carry out the purposes of this paragraph.

"(3) OTHER PROCEEDS.—The following proceeds shall not be taken into account under subsection (a):

"(A) PROCEEDS FROM SALE AFTER DUE DATE FOR RETURN.—Any proceeds from a sale which occurs after the date on which the return of the tax imposed by section 2001 is required to be filed (determined by taking into account any extension of time for filing).

"(B) PROCEEDS FROM SALE OF CERTAIN SECURITIES.—Any proceeds from a sale of employer securities which were received by the decedent—

"(i) in a distribution from a plan exempt from tax under section 501(a) and meeting the requirements of section 401(a), or

"(ii) as a transfer pursuant to an option or other right to acquire stock to which section 83, 422, 422A, 423, or 424 applies.

Any employer security the basis of which is determined by reference to any employer security described in the preceding sentence shall be treated as an employer security to which this subparagraph applies.

"(d) QUALIFIED EMPLOYER SECURITIES.—

"(1) IN GENERAL.—The term 'qualified employer securities' means employer securities—

"(A) which are issued by a domestic corporation which has no stock outstanding which is readily tradable on an established securities market,

"(B) which are includible in the gross estate of the decedent,

"(C) which would have been includible in the gross estate of the decedent if the decedent had died at any time during the shorter of—

"(i) the 5-year period ending on the date of death, or

"(ii) the period beginning on October 22, 1986, and ending on the date of death, and

101 STAT. 1330-435

"(D) with respect to which the executor elects the application of this section.

Subparagraph (C) shall not apply if the decedent died on or before October 22, 1986.

"(2) CERTAIN ASSETS HELD BY SPOUSE.—For purposes of paragraph (1)(C), any employer security which would have been includible in the gross estate of the spouse of a decedent during any period if the spouse had died during such period shall be treated as includible in the gross estate of the decedent during such period.

"(3) PERIODS DURING WHICH DECEDENT NOT AT RISK.—For purposes of paragraph (1)(C), employer securities shall not be treated as includible in the gross estate of the decedent during any period described in section 246(c)(4).

"(e) WRITTEN STATEMENT REQUIRED.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) unless the executor of the estate of the decedent files with the Secretary the statement described in paragraph (2).

"(2) STATEMENT.—A statement is described in this paragraph if it is a verified written statement—

"(A) which is made by—

"(i) the employer whose employees are covered by the employee stock ownership plan, or

"(ii) any authorized officer of the eligible worker-owned cooperative, and

"(B) which—

"(i) acknowledges that the sale of employer securities to the plan or cooperative is a sale to which sections 4978A and 4979A apply, and

"(ii) certifies—

"(I) the net sale amount for purposes of subsection (c)(1), and

"(II) the amount of assets which are not transferred assets for purposes of subsection (c)(2).

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) EMPLOYER SECURITIES.—The term 'employer securities' has the meaning given such term by section 409(l).

"(2) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' means—

"(A) a tax credit employee stock ownership plan (within the meaning of section 409(a)), or

"(B) a plan described in section 4975(e)(7).

"(3) ELIGIBLE WORKER-OWNED COOPERATIVE.—The term 'eligible worker-owned cooperative' has the meaning given such term by section 1042(c).

"(4) EMPLOYER.—Except to the extent provided in regulations, the term 'employer' includes any person treated as an employer under subsections (b), (c), (m), and (o) of section 414.

"(g) TERMINATION.—This section shall not apply to any sale after December 31, 1991."

26 USC 2057 note.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to sales after February 26, 1987.

101 STAT. 1330-436

(2) PROVISIONS TAKING EFFECT AS IF INCLUDED IN THE TAX REFORM ACT OF 1986.—The following provisions shall take effect as if included in the amendments made by section 1172 of the Tax Reform Act of 1986:

(A) Section 2057(f)(2) of the Internal Revenue Code of 1986, as added by this section.

(B) The repeal of the requirement that a sale be made by the executor of an estate to qualify for purposes of section 2057 of such Code.

(3) DIRECT OWNERSHIP REQUIREMENT.—If the requirements of section 2057(d)(1)(B) of such Code (as modified by section 2057(d)(2) of such Code), as in effect after the amendments made by this section, are met with respect to any employer securities sold after October 22, 1986, and before February 27, 1987, such securities shall be treated as having been directly owned by the decedent for purposes of section 2057 of such Code, as in effect before such amendments.

(4) REDUCTION FOR SALES ON OR BEFORE FEBRUARY 26, 1987.—In applying the limitations of subsection (b) of section 2057 of such Code to sales after February 26, 1987, there shall be taken into account sales on or before February 26, 1987, to which section 2057 of such Code applied.

SEC. 10413. EXCISE TAX ON PLANS OR COOPERATIVES DISPOSING OF EMPLOYER SECURITIES FOR WHICH ESTATE TAX DEDUCTION WAS ALLOWED.

(a) IN GENERAL.—Chapter 43 (relating to excise taxes on qualified pension, etc., plans) is amended by inserting after section 4978 the following new section:

"SEC. 4978A. TAX ON CERTAIN DISPOSITIONS OF EMPLOYER SECURITIES TO WHICH SECTION 2057 APPLIED.

"(a) IMPOSITION OF TAX.—In the case of a taxable event involving qualified employer securities held by an employee stock ownership plan or eligible worker-owned cooperative, there is hereby imposed a tax equal to the amount determined under subsection (b).

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be equal to 30 percent of—

"(A) the amount realized on the disposition in the case of a taxable event described in paragraph (1) or (2) of subsection (c), or

Loans.

"(B) the amount repaid on the loan in the case of a taxable event described in paragraph (3) of subsection (c).

"(2) DISPOSITIONS OTHER THAN SALES OR EXCHANGES.—For purposes of paragraph (1), in the case of a disposition of employer securities which is not a sale or exchange, the amount realized on such disposition shall be the fair market value of such employer securities at the time of disposition.

"(c) TAXABLE EVENT.—For purposes of this section, the term 'taxable event' means the following:

"(1) DISPOSITION WITHIN 3 YEARS OF ACQUISITION.—Any disposition of employer securities by an employee stock ownership plan or eligible worker-owned cooperative within 3 years after such plan or cooperative acquired qualified employer securities. 101 STAT. 1330-437

"(2) STOCKS DISPOSED OF BEFORE ALLOCATION.—Any disposition of qualified employer securities to which paragraph (1) does not apply if—

"(A) such disposition occurs before such securities are allocated to accounts of participants or their beneficiaries, and

"(B) the proceeds from such disposition are not so allocated.

"(3) USE OF ASSETS TO REPAY ACQUISITION LOANS.—The payment by an employee stock ownership plan of any portion of any loan used to acquire employer securities from transferred assets (within the meaning of section 2057(c)(2)(B)).

"(d) ORDERING RULES.—For purposes of this section and section 4978, any disposition of employer securities shall be treated as having been made in the following order:

"(1) First, from qualified employer securities acquired during the 3-year period ending on the date of such disposition, beginning with the securities first so acquired.

"(2) Second, from qualified employer securities acquired before such 3-year period unless such securities (or the proceeds from such disposition) have been allocated to accounts of participants or their beneficiaries.

"(3) Third, from qualified securities (within the meaning of section 4978(e)(2)) to which section 1042 applied acquired during the 3-year period ending on the date of such disposition, beginning with the securities first so acquired.

"(4) Finally, from any other employer securities. In the case of a disposition to which section 4978(d) or subsection (e) applies, the disposition of employer securities shall be treated as having been made in the opposite order of the preceding sentence.

"(e) SECTION NOT TO APPLY TO CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—This section shall not apply to any disposition described in paragraph (1) or (3) of section 4978(d).

"(2) CERTAIN REORGANIZATIONS.—For purposes of this section, any exchange of qualified employer securities for employer securities of another corporation in any reorganization described in section 368(a)(1) shall not be treated as a disposition, but the employer securities which were received shall be treated—

"(A) as qualified employer securities of the plan or cooperative, and

"(B) as having been held by the plan or cooperative during the period the qualified employer securities were held.

"(3) DISPOSITION TO MEET DIVERSIFICATION REQUIREMENTS.—Any disposition which is made to meet the requirements of section 401(a)(28) shall not be treated as a disposition.

"(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) TERMS USED IN SECTION 2057.—Any term used in this section which is used in section 2057 shall have the meaning given such term by section 2057.

"(2) QUALIFIED EMPLOYER SECURITIES.—The term 'qualified employer securities' has the meaning given such term by section

101 STAT. 1330-438

2057, except that such term shall include employer securities sold before February 27, 1987, for which a deduction was allowed under section 2057.

"(3) DISPOSITION.—The term 'disposition' includes any distribution.

"(4) LIABILITY FOR PAYMENT OF TAXES.—The tax imposed by this section shall be paid by—

"(A) the employer, or

"(B) the eligible worker-owned cooperative,

which made the written statement described in section 2057(e)."

(b) CONFORMING AMENDMENTS.—

(1) Section 4978(b)(2) is amended by striking out the parenthetical and inserting in lieu thereof "(determined as if such securities were disposed of in the order described in section 4978A(e))".

(2) The table of sections for chapter 43 is amended by inserting after the item relating to section 4978 the following new item:

"Sec. 4978A. Tax on certain dispositions of employer securities to which section 2057 applied."

26 USC 4978 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable events (within the meaning of section 4978A(c) of the Internal Revenue Code of 1986) occurring after February 26, 1987.

Subtitle E—Provisions Relating to Excise Taxes and User Fees

PART I—EXCISE TAXES

SEC. 10501. EXTENSION OF TELEPHONE EXCISE TAX.

Paragraph (2) of section 4251(b) (relating to applicable percentage) is amended to read as follows:

"(2) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means 3 percent; except that, with respect to amounts paid pursuant to bills first rendered after 1990, the applicable percentage shall be zero."

SEC. 10502. DIESEL FUEL AND AVIATION FUEL TAXES IMPOSED AT WHOLESALE LEVEL.

(a) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by inserting after subpart A the following new subpart:

"Subpart B—Diesel Fuel and Aviation Fuel

"Sec. 4091. Imposition of tax.
"Sec. 4092. Definitions.
"Sec. 4093. Exemptions; special rule.

26 USC 4091.

"SEC. 4091. IMPOSITION OF TAX.

"(a) IN GENERAL.—There is hereby imposed a tax on the sale of any taxable fuel by the producer or the importer thereof or by any producer of a taxable fuel.

"(b) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the tax imposed by subsection (a) shall be the sum of—

101 STAT. 1330-439

"(A)(i) the Highway Trust Fund financing rate in the case of diesel fuel, and

"(ii) the Airport and Airway Trust Fund financing rate in the case of aviation fuel, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate in the case of any taxable fuel.

"(2) HIGHWAY TRUST FUND FINANCING RATE.—For purposes of paragraph (1), except as provided in subsection (c), the Highway Trust Fund financing rate is 15 cents per gallon.

"(3) AIRPORT AND AIRWAY TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Airport and Airway Trust Fund financing rate is 14 cents per gallon.

"(4) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon.

"(5) TERMINATION OF RATES.—

"(A) The Highway Trust Fund financing rate shall not apply on and after October 1, 1993.

"(B) The Airport and Airway Trust Fund financing rate shall not apply on and after January 1, 1988.

"(C) The Leaking Underground Storage Tank Trust Fund financing rate shall not apply during any period during which the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 does not apply.

"(c) REDUCED RATE OF TAX FOR DIESEL FUEL IN ALCOHOL MIXTURE, ETC.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—The Highway Trust Fund financing rate shall be—

"(A) 9 cents per gallon in the case of the sale of any mixture of diesel fuel if—

"(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

"(ii) the diesel fuel in such mixture was not taxed under subparagraph (B), and

"(B) 10 cents per gallon in the case of the sale of diesel fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

"(2) LATER SEPARATION.—If any person separates the diesel fuel from a mixture of the diesel fuel and alcohol on which tax was imposed under subsection (a) at a Highway Trust Fund financing rate equivalent to 9 cents a gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such diesel fuel. The amount of tax imposed on any sale of such diesel fuel by such person shall be 5 cents per gallon.

"(3) TERMINATION.—Paragraph (1) shall not apply to any sale after September 30, 1993.

"(d) EXEMPTION FROM TAX FOR AVIATION FUEL IN ALCOHOL MIXTURE, ETC.—

"(1) IN GENERAL.—The Airport and Airway Trust Fund financing rate shall not apply to the sale of—

"(A) any mixture of aviation fuel at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)), or

"(B) any aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A). 101 STAT. 1330-440

"(2) LATER SEPARATION.—If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which the Airport and Airway Trust Fund financing rate did not apply by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(2)), such person shall be treated as the producer of such aviation fuel.

"(3) TERMINATION.—Paragraph (1) shall not apply to any sale after September 30, 1993.

"SEC. 4092. DEFINITIONS. 26 USC 4092

"(a) TAXABLE FUEL.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'taxable fuel' means—

"(A) diesel fuel, and

"(B) aviation fuel.

"(2) DIESEL FUEL.—The term 'diesel fuel' means any liquid (other than any product taxable under section 4081) which is suitable for use as a fuel in a diesel-powered highway vehicle or a diesel-powered train.

"(3) AVIATION FUEL.—The term 'aviation fuel' means any liquid (other than any product taxable under section 4081) which is suitable for use as a fuel in an aircraft.

"(b) PRODUCER.—For purposes of this subpart—

"(1) CERTAIN PERSONS TREATED AS PRODUCERS.—

"(A) IN GENERAL.—The term 'producer' includes any person described in subparagraph (B) who elects to register under section 4101 with respect to the tax imposed by section 4091.

"(B) PERSONS DESCRIBED.—A person is described in this subparagraph if such person is—

"(i) a refiner, compounder, blender, or wholesale distributor of a taxable fuel, or

"(ii) a dealer selling any taxable fuel exclusively to producers of such taxable fuel.

"(C) TAX-FREE PURCHASERS TREATED AS PRODUCERS.—Any person to whom any taxable fuel is sold tax-free under this subpart shall be treated as the producer of such fuel.

"(2) WHOLESALE DISTRIBUTOR.—For purposes of paragraph (1), the term 'wholesale distributor' includes any person who sells a taxable fuel to producers, retailers, or to users who purchase in bulk quantities and deliver into bulk storage tanks. Such term does not include any person who (excluding the term 'wholesale distributor' from paragraph (1)) is a producer or importer.

26 USC 4093

"SEC. 4093. EXEMPTIONS; SPECIAL RULE.

"(a) HEATING OIL.—The tax imposed by section 4091 shall not apply in the case of sales of any taxable fuel which the Secretary determines is destined for use as heating oil.

Regulations

"(b) SALES TO PRODUCER.—Under regulations prescribed by the Secretary, the tax imposed by section 4091 shall not apply in the case of sales of a taxable fuel to a producer of such fuel.

Regulations

"(c) AUTHORITY TO EXEMPT CERTAIN OTHER USES.—Subject to such terms and conditions as the Secretary may provide (including the application of section 4101), the Secretary may by regulation provide that—

101 STAT. 1330-441

"(1) the Highway Trust Fund financing rate under section 4091 shall not apply to diesel fuel sold for use by any purchaser as a fuel in a diesel-powered train,

"(2) the Airport and Airway Trust Fund financing rate under section 4091 shall not apply to aviation fuel sold for use by any purchaser as a fuel in an aircraft not in noncommercial aviation (as defined in section 4041(c)(4)),

"(3) the tax imposed by section 4091 shall not apply to taxable fuel sold for use by any purchaser other than as a motor fuel, and

"(4) the tax imposed by section 4091 shall not apply to taxable fuel sold for the exclusive use of any State, any political subdivision of a State, or the District of Columbia.

Reports

"(d) SPECIAL ADMINISTRATIVE RULES.—The Secretary may require—

"(1) information reporting by each remitter of the tax imposed by section 4091, and

"(2) information reporting by, and registration of, such other persons as the Secretary deems necessary to carry out this subpart.

"(e) CROSS REFERENCES.—

"(1) For imposition of tax where certain uses of diesel fuel or aviation fuel occur before imposition of tax by section 4091, see subsections (a)(1) and (c)(1) of section 4041.

"(2) For provisions allowing a credit or refund for fuel not used for certain taxable purposes, see section 6427."

(b) RETAIL DIESEL FUEL AND AVIATION FUEL TAXES TO BE RESIDUAL TAXES.—

(1) Paragraph (1) of section 4041(a) is amended—

(A) by striking out "DIESEL FUEL" in the heading and inserting in lieu thereof "TAX ON DIESEL FUEL WHERE NO TAX IMPOSED ON FUEL UNDER SECTION 4091", and

(B) by adding at the end thereof the following new sentence:

"No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091."

(2) Paragraph (1) of section 4041(c) is amended—

(A) by striking out "IN GENERAL" in the heading and inserting in lieu thereof "TAX ON NONGASOLINE FUELS WHERE NO TAX IMPOSED ON FUEL UNDER SECTION 4091", and

(B) by adding at the end thereof the following new sentence:

"No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091."

(3) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) TAX ON SALES AND USES SUBJECT TO TAX UNDER SUBSECTION (a).—In addition to the taxes imposed by subsection (a), there is hereby imposed a tax of 0.1 cent a gallon on the sale or use of any liquid (other than liquefied petroleum gas) if tax is imposed by subsection (a) on such sale or use.

"(2) TAX ON DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent a gallon on any liquid (other than a product taxable under section 4081)— 101 STAT. 1330-442

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

"(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such liquid under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091.

"(3) LIQUIDS USED IN AVIATION.—In addition to the taxes imposed by subsection (c), there is hereby imposed a tax of 0.1 cent a gallon on any liquid (other than any product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft, or

"(B) used by any person as a fuel in an aircraft unless there was a taxable sale of such liquid under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091."

(4) Subsection (n) of section 4041 is hereby repealed.

(c) AMENDMENTS RELATING TO CREDITS AND REFUNDS.—

(1) Section 6427 is amended by redesignating subsections (l) through (p) as subsections (m) through (q), respectively, and by inserting after subsection (k) the following new subsection:

"(l) NONTAXABLE USES OF DIESEL FUEL AND AVIATION FUEL TAXED UNDER SECTION 4091.—

"(1) IN GENERAL.—Except as provided in subsection (k) and in paragraph (3) of this subsection, if any fuel on which tax has been imposed by section 4091 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4091.

"(2) NONTAXABLE USE.—For purposes of this subsection, the term 'nontaxable use' means, with respect to any fuel, any use of such fuel if such use is exempt from the taxes imposed by subsections (a)(1) and (c)(1) of section 4041 (other than by reason of the imposition of tax on any sale thereof).

"(3) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING TAX.—Paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section in the case of—

"(A) fuel used in a diesel-powered train, and

"(B) fuel used in any aircraft."

(2) Paragraph (1) of section 6427(b) is amended—

(A) by striking out "subsection (a) of section 4041" the first place it appears and inserting in lieu thereof "section 4041(a) or 4091", and

(B) by striking out "subsection (a) of section 4041" the second place it appears and inserting in lieu thereof "section 4041(a) or 4091, as the case may be".

(3) Subparagraph (B) of section 6427(e)(1) is amended by inserting "or 4091" after "section 4041".

101 STAT. 1330-443

(4) Subsection (f) of section 6427 is amended to read as follows:

"(f) GASOLINE, DIESEL FUEL, AND AVIATION FUEL USED TO[123] PRODUCE CERTAIN ALCOHOL FUELS.—Except as provided in subsection (k)—

"(1) GASOLINE AND DIESEL FUELS.—

"(A) IN GENERAL.—If any gasoline or diesel fuel on which tax was imposed by section 4081 or 4091 at the regular Highway Trust Fund financing rate is used by any person in producing a mixture described in section 4081(c) or in section 4091(c)(1)(A) (as the case may be) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular Highway Trust Fund financing rate over the incentive Highway Trust Fund Financing rate with respect to such fuel.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) REGULAR HIGHWAY TRUST FUND FINANCING RATE.—The term 'regular Highway Trust Fund financing rate' means—

"(I) 9 cents per gallon in the case of gasoline, and

"(II) 15 cents per gallon in the case of diesel fuel.

"(ii) INCENTIVE HIGHWAY TRUST FUND FINANCING RATE.—The term 'incentive Highway Trust Fund Financing rate' means—

"(I) 3⅓ cents per gallon in the case of gasoline, and

"(II) 10 cents per gallon in the case of diesel fuel.

"(C) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under subparagraph (A) with respect to any gasoline or diesel fuel with respect to which an amount is payable under subsection (d), (e), or (l) of this section or under section 6420 or 6421.

"(2) AVIATION FUEL.—If any aviation fuel on which tax was imposed by section 4091 is used by any person in producing a mixture at least 10 percent of which is alcohol (as defined in section 4081(c)(3)) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of tax (attributable to the Airport and Airway Trust Fund financing rate) imposed on such fuel under section 4091.

"(3) TERMINATION.—Paragraphs (1) and (2) shall not apply with respect to any mixture sold or used after September 30, 1993."

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[123] Copy read "TO".

(5)(A) Paragraph (1) of section 6427(i) is amended by striking out "or (h)" and inserting in lieu thereof "(h), or (l)".

(B) Clause (i) of section 6427(i)(2)(A) is amended by striking out "and (h)" and inserting in lieu thereof "(h), and (l)".

(6) Subsection (o) of section 6427 (as redesignated by paragraph (1)) is amended to read as follows:

"(o) TERMINATION OF CERTAIN PROVISIONS.—Except with respect to taxes imposed by section 4041(d) and sections 4081 and 4091 at the Leaking Underground Storage Tank Trust Fund financing rate, subsections (a), (b), (c), (d), (g), (h), and (l) shall only apply with respect to fuels purchased before October 1, 1993."

(d) OTHER CONFORMING AMENDMENTS.— 101 STAT. 1330-444

(1) Subsection (c) of section 40 is amended by striking out "or section 4081(c)" and inserting in lieu thereof ", section 4081(c), or section 4091(c)".

(2) Subparagraph (B) of section 4081(e)(2), as amended by section 1703 of the Tax Reform Act of 1986, is amended by striking out "net revenues" and all that follows and inserting in lieu thereof the following: "net revenues are at least $500,000,000 from taxes imposed by section 4041(d) and taxes attributable to Leaking Underground Storage Tank Trust Fund financing rate imposed under this section and sections 4042 and 4091."

(3) Subsection (a) of section 4101, as amended by section 1703 of the Tax Reform Act of 1986, is amended by inserting "or 4091" after "section 4081".

(4) Subsection (a) of section 4221 is amended by striking out "(other than" and all that follows through "sale by the manufacturer" and inserting in lieu thereof "(other than under section 4121, 4081, or 4091) on the sale by the manufacturer".

(5) Section 6206 is amended by striking out "or 4041" and inserting in lieu thereof "or 4041 or 4091".

(6) Paragraph (2) of section 6416(b) is amended—

(A) by striking out "(other than coal taxable under section 4121)", and

(B) by adding at the end thereof the following new sentence: "This paragraph shall not apply in the case of any tax paid under section 4091 or 4121."

(7) Subparagraph (A) of section 6416(b)(3) is amended by inserting "and other than any fuel taxable under section 4091" after "section 4081".

(8) Subparagraph (B) of section 6416(b)(3) is amended by striking out ", such gasoline" and inserting in lieu thereof "or any fuel taxable under section 4091, such gasoline or fuel".

(9) Subparagraph (C) of section 6421(e)(2) is hereby repealed.

(10) The subsection (j) of section 6421 relating to cross references is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), and (4), as paragraphs (1), (2), and (3), respectively.

(11) Section 6652 is amended by striking out the subsection (j) added by section 1702(b) of the Tax Reform Act of 1986 and by redesignating subsections (l) and (m) as subsections (k) and (l), respectively.

(12) Subsection (b) of section 9502 is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) amounts determined by the Secretary to be equivalent to the taxes received in the Treasury before January 1, 1988, under section 4091 (to the extent attributable to the Airport and Airway Trust Fund financing rate), and".

(13) Paragraph (1) of section 9503(b) is amended by striking out subparagraph (F) and inserting in lieu thereof the following:

"(F) section 4091 (relating to tax on diesel fuel), and".

(14) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2)—

101 STAT. 1330-445

"(A) there shall not be taken into account the taxes imposed by sections 4041(d), and

"(B) there shall be taken into account the taxes imposed by sections 4081 and 4091 only to the extent attributable to the Highway Trust Fund financing rates under such sections."

(15) Paragraph (2) of section 9503(e) is amended—

(A) by striking out "sections 4041 and 4081" and inserting in lieu thereof "sections 4041, 4081, and 4091", and

(B) by striking out "section 4041 or 4081" and inserting in lieu thereof "section 4041, 4081, or 4091".

(16) Subsection (b) of section 9508 is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) taxes received in the Treasury under section 4091 (relating to tax on diesel fuel and aviation fuel) to the extent attributable to the Leaking Underground Storage Trust Fund financing rate under such section,".

(17) Subparagraph (A) of section 9508(c)(2) is amended by striking out clause (ii) and all that follows and inserting in lieu thereof the following:

"(ii) credits allowed under section 34,

with respect to the taxes imposed by section 4041(d) or by sections 4081 and 4091 (to the extent attributable to the Leaking Underground Storage Trust Fund financing rate under such sections)."

(18) The table of subparts for part III of subchapter A of chapter 32 is amended by inserting after the item relating to subpart A the following new item:

"Subpart B. Diesel fuel and aviation fuel."

26 USC 40 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after March 31, 1988.

26 USC 4091 note.

(f) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—On any taxable fuel which on April 1, 1988, is held by a taxable person, there is hereby imposed a floor stocks tax at the rate of tax which would be imposed if such fuel were sold on such date in a sale subject to tax under section 4091 of the Internal Revenue Code of 1986 (as added by this section).

(2) OVERPAYMENT OF FLOOR STOCKS TAXES, ETC.—Sections 6416 and 6427 of such Code shall apply in respect of the floor stocks taxes imposed by this subsection so as to entitle, subject to all provisions of such sections, any person paying such floor stocks taxes to a credit or refund thereof for any reason specified in such sections. All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code (as so added) shall apply to the floor stocks taxes imposed by this subsection.

(3) DUE DATE OF TAX.—The taxes imposed by this subsection shall be paid before June 16, 1988.

(4) DEFINITIONS.—For purposes of this subsection—

(A) TAXABLE FUEL.—

101 STAT. 1330-446

(i) IN GENERAL.—The term "taxable fuel" means any taxable fuel (as defined in section 4092 of such Code, as added by this section) on which no tax has been imposed under section 4041 of such Code.

(ii) EXCEPTION FOR FUEL HELD FOR NONTAXABLE USES.—The term "taxable fuel" [124] shall not include fuel held exclusively for any use which is a nontaxable use (as defined in section 6427(l) of such Code, as added by this section).

(B) TAXABLE PERSON.—The term "taxable person" means any person other than a producer (as defined in section 4092 of such Code, as so added) or importer of taxable fuel.

(C) HELD BY A TAXABLE PERSON.—An article shall be treated as held by a person if title thereto has passed to such person (whether or not delivery to such person has been made).

(5) SPECIAL RULE FOR FUEL HELD FOR USE IN TRAINS AND COMMERCIAL AIRCRAFT.—Only the Leaking Underground Storage Tank Trust Fund financing rate under section 4091 of such Code shall apply for purposes of this subsection with respect to—

(A) diesel fuel held exclusively for use as a fuel in a diesel-powered train, and

(B) aviation fuel held exclusively for use as a fuel in an aircraft not in noncommercial aviation (as defined in section 4041(c)(4) of such Code).

(6) TRANSFER OF FLOOR STOCK REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4091 of such Code (as so added).

(g) COORDINATION WITH AIRPORT AND AIRWAY SAFETY AND CAPACITY EXPANSION ACT OF 1987.—If the Airport and Airway Safety and Capacity Expansion Act of 1987 is enacted, effective on December 31, 1987, sections 4091(b)(5)(B) and 9502(b)(3) of such Code (as added by this section) are each amended by striking out "January 1, 1988" and inserting in lieu thereof "January 1, 1991". [125]

Effective date. 26 USC 4091 note.

SEC. 10503. EXTENSION OF TEMPORARY INCREASE IN AMOUNT OF TAX IMPOSED ON COAL PRODUCERS.

Subparagraph (A) of section 4121(e)(2) (relating to temporary increase termination date) is amended by striking out "January 1, 1996" and inserting in lieu thereof "January 1, 2014".

PART II—TAX-RELATED USER FEES

SEC. 10511. FEES FOR REQUESTS FOR RULING, DETERMINATION, AND SIMILAR LETTERS.

26 USC 7801 note.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate (hereinafter in this section referred to as the "Secretary") shall establish a program requiring the payment of user fees for requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters and for similar requests.

(b) PROGRAM CRITERIA.—

(1) IN GENERAL.—The fees charged under the program required by subsection (a)— 101 STAT. 1330-447

(A) shall vary according to categories (or subcategories) established by the Secretary,

(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

(C) shall be payable in advance.

(2) EXEMPTIONS, ETC.—The Secretary shall provide for such exemptions (and reduced fees) under such program as he determines to be appropriate.

[124] Copy read " 'taxable fuel' ".
[125] Copy read "1991", and.".

(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

Category	Average Fee
Employee plan ruling and opinion	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination	$275
Chief counsel ruling	$200.

Effective date.

(c) APPLICATION OF SECTION.—Subsection (a) shall apply with respect to requests made on or after the 1st day of the second calendar month beginning after the date of the enactment of this Act and before September 30, 1990.

SEC. 10512. OCCUPATIONAL TAXES RELATING TO ALCOHOL, TOBACCO, AND FIREARMS.

(a) OCCUPATIONAL TAXES ON DISTILLED SPIRITS PLANTS, BONDED WINE CELLARS, BREWERIES, ETC.—

(1) DISTILLED SPIRITS PLANTS, BONDED WINE CELLARS, ETC.—

(A) IN GENERAL.—Part II of subchapter A of chapter 51 (relating to distilled spirits, wines, and beer) is amended by inserting before subpart B the following new subpart:

"Subpart A—Proprietors of Distilled Spirits Plants, Bonded Wine Cellars, Etc.

"Sec. 5081. Imposition and rate of tax.

26 USC 5081.

"SEC. 5081. IMPOSITION AND RATE OF TAX.

"(a) GENERAL RULE.—Every proprietor of—

"(1) a distilled spirits plant,

"(2) a bonded wine cellar,

"(3) a bonded wine warehouse, or

"(4) a taxpaid wine bottling house,

shall pay a tax of $1,000 per year in respect of each such premises.

"(b) REDUCED RATES FOR SMALL PROPRIETORS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '$500' for '$1,000' with respect to any taxpayer the gross receipts of which (for the most recent taxable year ending before the 1st day of the taxable period to which the tax imposed by subsection (a) relates) are less than $500,000.

"(2) CONTROLLED GROUP RULES.—All persons treated as 1 taxpayer under section 5061(e)(3) shall be treated as 1 taxpayer for purposes of paragraph (1).

"(3) CERTAIN RULES TO APPLY.—For purposes of paragraph (1), rules similar to the rules of subparagraphs (B) and (C) of section 448(c)(3) shall apply."

101 STAT. 1330-448

(B) TECHNICAL AMENDMENTS.—

(i) Subsection (a) of section 5691 is amended by striking out "the business of a brewer, wholesale dealer in liquors, retail dealer in liquors, wholesale dealer in beer, retail dealer in beer, or limited retail dealer," and inserting in lieu thereof "a business subject to a special tax imposed by part II of subchapter A or section 5276 (relating to occupational taxes)"

(ii) The section heading of section 5691 is amended by striking out "**RELATING TO LIQUORS**".

(iii) The table of sections for part V of subchapter J of chapter 51 is amended by striking out "relating to liquors" in the item relating to section 5691.

(C) CLERICAL AMENDMENT.—The table of subparts for part II of subchapter A of chapter 51 is amended by inserting before the item relating to subpart B the following new item:

"Subpart A. Proprietors of distilled spirits plants, bonded wine cellars, etc."

(2) BREWERIES.—Section 5091 (relating to imposition and rate of tax on brewers) is amended to read as follows:

"SEC. 5091. IMPOSITION AND RATE OF TAX. 26 USC 5091.

"(a) GENERAL RULE.—Every brewer shall pay a tax of $1,000 per year in respect of each brewery.

"(b) REDUCED RATES FOR SMALL BREWERS.—Rules similar to the rules of section 5081(b) shall apply for purposes of subsection (a)."

(b) WHOLESALE DEALERS IN LIQUORS AND BEER.—

(1) LIQUORS.—Subsection (a) of section 5111 (relating to imposition and rate of tax on wholesale dealers) is amended by striking out "$255" and inserting in lieu thereof "$500".

(2) BEER.—Subsection (b) of section 5111 is amended by striking out "$123" and inserting in lieu thereof "$500".

(c) RETAIL DEALERS IN LIQUORS AND BEER.—

(1) LIQUORS.—Subsection (a) of section 5121 (relating to imposition and rate of tax on retail dealers) is amended by striking out "$54" and inserting in lieu thereof "$250".

(2) BEER.—Subsection (b) of section 5121 is amended by striking out "$24" and inserting in lieu thereof "$250".

(3) REPEAL OF TAX ON LIMITED RETAIL DEALERS.—Subsection (c) of section 5121 is hereby repealed.

(d) TAX ON NONBEVERAGE DOMESTIC DRAWBACK.—Subsection (b) of section 5131 (relating to eligibility and rate of tax) is amended to read as follows:

"(b) RATE OF TAX.—The special tax imposed by subsection (a) shall be $500 per year."

(e) TAX ON INDUSTRIAL USE OF DISTILLED SPIRITS.—

(1) IN GENERAL.—Subchapter D of chapter 51 (relating to industrial use of distilled spirits) is amended by adding at the end thereof the following new section:

"SEC. 5276. OCCUPATIONAL TAX. 26 USC 5276.

"(a) GENERAL RULE.—A permit issued under section 5271 shall not be valid with respect to acts conducted at any place unless the person holding such permit pays a special tax of $250 with respect to such place. 101 STAT. 1330-449

"(b) CERTAIN OCCUPATIONAL TAX RULES TO APPLY.—Rules similar to the rules of subpart G of part II of subchapter A shall apply for purposes of this section."

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"Sec. 5276. Occupational tax."

(f) TOBACCO.—

(1) IN GENERAL.—Chapter 52 (relating to cigars, cigarettes, smokeless tobacco and cigarette papers and tubes) is amended by redesignating subchapters D, E, and F as subchapters E, F, and G, respectively, and by inserting after subchapter C the following new subchapter:

"Subchapter D—Occupational Tax

"Sec. 5731. Imposition and rate of tax.

"SEC. 5731. IMPOSITION AND RATE OF TAX. 26 USC 5731.

"(a) GENERAL RULE.—Every person engaged in business as—

"(1) a manufacturer of tobacco products,

"(2) a manufacturer of cigarette papers and tubes, or

"(3) an export warehouse proprietor,

shall pay a tax of $1,000 per year in respect of each premises at which such business is carried on.

"(b) REDUCED RATES FOR SMALL PROPRIETORS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '$500' for '$1,000' with respect to any taxpayer the gross receipts of which (for the most recent taxable year ending before the 1st day of the taxable period to which the tax imposed by subsection (a) relates) are less than $500,000.

"(2) CONTROLLED GROUP RULES.—All persons treated as 1 taxpayer under section 5061(e)(3) shall be treated as 1 taxpayer for purposes of paragraph (1).

"(3) CERTAIN RULES TO APPLY.—For purposes of paragraph (1), rules similar to the rules of subparagraphs (B) and (C) of section 448(c)(3) shall apply.

"(c) CERTAIN OCCUPATIONAL TAX RULES TO APPLY.—Rules similar to the rules of subpart G of part II of subchapter A of chapter 51 shall apply for purposes of this section.

"(d) PENALTY FOR FAILURE TO REGISTER.—Any person engaged in a business referred to in subsection (a) who willfully fails to pay the tax imposed by subsection (a) shall be fined not more than $5,000, or imprisoned not more than 2 years, or both, for each such offense."

(2) CLERICAL AMENDMENT.—The table of subchapters for chapter 52 is amended by redesignating the items relating to subchapters D, E, and F as items relating to subchapters E, F, and G, respectively, and by inserting after the item relating to subchapter C the following new item:

"SUBCHAPTER D. Occupational tax."

(g) FIREARMS.—

(1) IN GENERAL.—Section 5801 (relating to occupational taxes) is amended to read as follows:

101 STAT. 1330-450

26 USC 5801.

"SEC. 5801. IMPOSITION OF TAX.

"(a) GENERAL RULE.—On 1st engaging in business and thereafter on or before July 1 of each year, every importer, manufacturer, and dealer in firearms shall pay a special (occupational) tax for each place of business at the following rates:

"(1) Importers and manufacturers: $1,000 a year or fraction thereof.

"(2) Dealers: $500 a year or fraction thereof.

"(b) REDUCED RATES OF TAX FOR SMALL IMPORTERS AND MANUFACTURERS.—

"(1) IN GENERAL.—Paragraph (1) of subsection (a) shall be applied by substituting '$500' for '$1,000' with respect to any taxpayer the gross receipts of which (for the most recent taxable year ending before the 1st day of the taxable period to which the tax imposed by subsection (a) relates) are less than $500,000.

"(2) CONTROLLED GROUP RULES.—All persons treated as 1 taxpayer under section 5061(e)(3) shall be treated as 1 taxpayer for purposes of paragraph (1).

"(3) CERTAIN RULES TO APPLY.—For purposes of paragraph (1), rules similar to the rules of subparagraphs (B) and (C) of section 448(c)(3) shall apply."

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 53 is amended by striking out the item relating to section 5801 and inserting in lieu thereof the following new item:

"Sec. 5801. Imposition of tax."

26 USC 5081 note.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1988.

(2) ALL TAXPAYERS TREATED AS COMMENCING IN BUSINESS ON JANUARY 1, 1988.—

(A) IN GENERAL.—Any person engaged on January 1, 1988, in any trade or business which is subject to an occupational tax shall be treated for purposes of such tax as having 1st engaged in such trade or business on such date.

(B) LIMITATION ON AMOUNT OF TAX.—In the case of a taxpayer who paid an occupational tax in respect of any premises for any taxable period which began before January 1, 1988, and includes such date, the amount of the occupational tax imposed by reason of subparagraph (A) in respect of such premises shall not exceed an amount equal to ½ the excess (if any) of—

(i) the rate of such tax as in effect on January 1, 1988, over

(ii) the rate of such tax as in effect on December 31, 1987.

(C) OCCUPATIONAL TAX.—For purposes of this paragraph, the term "occupational tax" means any tax imposed under part II of subchapter A of chapter 51, section 5276, section 5731, or section 5801 of the Internal Revenue Code of 1986 (as amended by this section).

(D) DUE DATE OF TAX.—The amount of any tax required to be paid by reason of this paragraph shall be due on April 1, 1988.

101 STAT. 1330-451

Subtitle F—Other Revenue Provisions

PART I—TARGETED JOBS CREDIT

SEC. 10601. DENIAL OF TARGETED JOBS CREDIT FOR WAGES PAID DURING PERIOD OF LABOR DISPUTE.

(a) GENERAL RULE.—Subsection (c) of section 51 (defining wages) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) PAYMENTS FOR SERVICES DURING LABOR DISPUTES.—If—

"(A) the principal place of employment of an individual with the employer is at a plant or facility, and

"(B) there is a strike or lockout involving employees at such plant or facility,

the term 'wages' shall not include any amount paid or incurred by the employer to such individual for services which are the same as, or substantially similar to, those services performed by employees participating in, or affected by, the strike or lockout during the period of such strike or lockout."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid or incurred on or after January 1, 1987, for services rendered on or after such date.

26 USC 51 note.

PART II—TREATMENT OF CERTAIN ILLEGAL IRRIGATION SUBSIDIES

SEC. 10611. TREATMENT OF CERTAIN ILLEGAL IRRIGATION SUBSIDIES.

(a) GENERAL RULE.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 90. ILLEGAL FEDERAL IRRIGATION SUBSIDIES.

26 USC 90.

"(a) GENERAL RULE.—Gross income shall include an amount equal to any illegal Federal irrigation subsidy received by the taxpayer during the taxable year.

"(b) ILLEGAL FEDERAL IRRIGATION SUBSIDY.—For purposes of this section—

"(1) IN GENERAL.—The term 'illegal Federal[126] irrigation subsidy' means the excess (if any) of—

"(A) the amount required to be paid for any Federal irrigation water delivered to the taxpayer during the taxpayer year, over

[126] Copy read "federal".

"(B) the amount paid for such water.

"(2) FEDERAL IRRIGATION WATER.—The term 'Federal irrigation water' means any water made available for agricultural purposes from the operation of any reclamation or irrigation project referred to in paragraph (8) of section 202 of the Reclamation Reform Act of 1982.

"(c) DENIAL OF DEDUCTION.—No deduction shall be allowed under this subtitle by reason of any inclusion in gross income under subsection (a)."

101 STAT. 1330-452

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 90. Federal irrigation subsidies."

26 USC 90 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to water delivered to the taxpayer in months beginning after the date of the enactment of this Act.

PART III—COMPLIANCE

SEC. 10621. STATE ESCHEAT LAWS NOT TO APPLY TO REFUNDS OF FEDERAL TAX.

(a) GENERAL RULE.—Subchapter A of chapter 65 (relating to procedure in general for abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

26 USC 6408.

"SEC. 6408. STATE ESCHEAT LAWS NOT TO APPLY.

"No overpayment of any tax imposed by this title shall be refunded (and no interest with respect to any such overpayment shall be paid) if the amount of such refund (or interest) would escheat to a State or would otherwise become the property of a State under any law relating to the disposition of unclaimed or abandoned property. No refund (or payment of interest) shall be made to the estate of any decedent unless it is affirmatively shown that such amount will not escheat to a State or otherwise become the property of a State under such a law."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 65 is amended by adding at the end thereof the following new item:

"Sec. 6408. State escheat laws not to apply."

26 USC 6408 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

26 USC 7803 note.

SEC. 10622. SENSE OF CONGRESS AS TO INCREASED INTERNAL REVENUE SERVICE FUNDING FOR TAXPAYER ASSISTANCE AND ENFORCEMENT.

(a) FINDINGS.—The Congress hereby finds that—

(1) the Internal Revenue Service estimates that the amount of taxes owed for 1986 will exceed the amount of taxes collected for such year by $100 billion;

(2) the current taxpayer compliance rate stands at 81.5 percent;

(3) the tax gap can be significantly reduced by enhancing taxpayer assistance services and enforcement; and

(4) the Appropriations Committee of the House of Representatives, in its fiscal year 1988 Internal Revenue Service appropriation, took a step in the direction of providing additional funding for taxpayer assistance and enforcement efforts.

(b) It is the sense of the Congress that:

(1) The Congress increase outlays for the Internal Revenue Service in fiscal year 1989 and fiscal year 1990 in the areas of taxpayer assistance and enforcement by $.7 billion in fiscal year 1989 for a revenue total of $3.2 billion and by $.8 billion in fiscal year 1990 for a revenue total of $4.4 billion. The net revenue increase would be $2.5 billion in fiscal year 1989 and $3.6 billion in fiscal year 1990, or a net revenue increase over the House

Appropriations Committee recommendations of $.4 billion in fiscal year 1989 and $1.3 billion in fiscal year 1990. 101 STAT. 1330-453

(2) The Internal Revenue Service offer improved taxpayer assistance and enforcement efforts by using the aforementioned outlays in areas recommended by, or consistent with the recommendations of, the "Dorgan Task Force Report". Taxpayer assistance efforts would include providing expanded taxpayer education programs, instituting pilot programs of taxmobiles in rural areas, and upgrading the quality of telephone assistance. Taxpayer enforcement efforts would include raising the audit rate from 1.1 percent toward 2.5 percent, restoring resources to criminal investigations, and the collection of delinquent accounts.

(3) The Congress should undertake an experimental multiyear authorization and 2-year appropriation for the Internal Revenue Service consistent with the recommendations in Public Law 100-119, section [127] 201 (Increasing the Statutory Limit on the Public Debt).

(4) Increased funding should be provided for compilation and analysis of statistics of income and research.

Reports.

The Internal Revenue Service must issue a report on the extent of the tax gap and the measures that could be undertaken to decrease the tax gap. The report must utilize more current data than has been utilized recently. The report must be issued by April 15, 1989. The Internal Revenue Service must also report annually on the improvements being made in the audit rate, taxpayer assistance, and enforcement efforts.

PART IV—TAX-EXEMPT BOND PROVISIONS

SEC. 10631. ISSUES USED TO ACQUIRE NONGOVERNMENTAL OUTPUT PROPERTY.

(a) IN GENERAL.—Section 141 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) CERTAIN ISSUES USED TO ACQUIRE NONGOVERNMENTAL OUTPUT PROPERTY TREATED AS PRIVATE ACTIVITY BONDS.—

"(1) IN GENERAL.—For purposes of this title, the term 'private activity bond' includes any bond issued as part of an issue if the amount of the proceeds of the issue which are to be used (directly or indirectly) for the acquisition by a governmental unit of nongovernmental output property exceeds the lesser of—

"(A) 5 percent of such proceeds, or

"(B) $5,000,000.

"(2) NONGOVERNMENTAL OUTPUT PROPERTY.—Except as otherwise provided in this subsection, for purposes of paragraph (1), the term 'nongovernmental output property' means any property (or interest therein) which before such acquisition was used (or held for use) by a person other than a governmental unit in connection with an output facility (within the meaning of subsection (b)(4)) (other than a facility for the furnishing of water). For purposes of the preceding sentence, use (or the holding for use) before October 14, 1987, shall not be taken into account. 101 STAT. 1330-454

"(3) EXCEPTION FOR PROPERTY ACQUIRED TO PROVIDE OUTPUT TO CERTAIN AREAS.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'nongovernmental output property' shall not include any property which is to be used in connection with an output facility 95 percent or more of the output of which will be consumed in—

"(i) a qualified service area of the governmental unit acquiring the property, or

"(ii) a qualified annexed area of such unit.

[127] Copy read "Sec.".

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) QUALIFIED SERVICE AREA.—The term 'qualified service area' means, with respect to the governmental unit acquiring the property, any area throughout which such unit provided (at all times during the 10-year period ending on the date such property is acquired by such unit) output of the same type as the output to be provided by such property. For purposes of the preceding sentence, the period before October 14, 1987, shall not be taken into account.

"(ii) QUALIFIED ANNEXED AREA.—The term 'qualified annexed area' means, with respect to the governmental unit acquiring the property, any area if—

"(I) such area is contiguous to, and annexed for general governmental purposes into, a qualified service area of such unit,

"(II) output from such property is made available to all members of the general public in the annexed area, and

"(III) the annexed area is not greater than 10 percent of such qualified service area.

"(C) LIMITATION ON SIZE OF ANNEXED AREA NOT TO APPLY WHERE OUTPUT CAPACITY DOES NOT INCREASE BY MORE THAN 10 PERCENT.—Subclause (III) of subparagraph (B)(ii) shall not apply to an annexation of an area by a governmental unit if the output capacity of the property acquired in connection with the annexation, when added to the output capacity of all other property which is not treated as nongovernmental output property by reason of subparagraph (A)(ii) with respect to such annexed area, does not exceed 10 percent of the output capacity of the property providing output of the same type to the qualified service area into which it is annexed.

"(D) RULES FOR DETERMINING RELATIVE SIZE, ETC.—For purposes of subparagraphs (B)(ii) and (C)—

"(i) The size of any qualified service area and the output capacity of property serving such area shall be determined as the close of the calendar year preceding the calendar year in which the acquisition of nongovernmental output property or the annexation occurs.

"(ii) A qualified annexed area shall be treated as part of the qualified service area into which it is annexed for purposes of determining whether any other area annexed in a later year is a qualified annexed area.

"(4) EXCEPTION FOR PROPERTY CONVERTED TO NONOUTPUT USE.—For purposes of paragraph (1)— 101 STAT. 1330-455

"(A) IN GENERAL.—The term 'nongovernmental output property' shall not include any property which is to be converted to a use not in connection with an output facility.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any property which is part of the output function of a nuclear power facility.

"(5) SPECIAL RULES.—In the case of a bond which is a private activity bond solely by reason of this subsection—

"(A) subsections (c) and (d) of section 147 (relating to limitations on acquisition of land and existing property) shall not apply, and

"(B) paragraph (8) of section 142(a) shall be applied as if it did not contain 'local'.

"(6) TREATMENT OF JOINT ACTION AGENCIES.—With respect to nongovernmental output property acquired by a joint action agency the members of which are governmental units, this subsection shall be applied at the member level by treating each member as acquiring its proportionate share of such property."

(b) TECHNICAL AMENDMENT.—Subparagraph (A) of section 146(f)(5) is amended to read as follows:

"(A) the purpose of issuing exempt facility bonds described in 1 of the paragraphs of section 142(a),".

(c) EFFECTIVE DATE.— 26 USC 141 note

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to bonds issued after October 13, 1987 (other than bonds issued to refund bonds issued on or before such date).

(2) BINDING AGREEMENTS.—The amendments made by this section shall not apply to bonds (other than advance refunding bonds) with respect to a facility acquired after October 13, 1987, pursuant to a binding contract entered into on or before such date.

(3) TRANSITIONAL RULE.—The amendments made by this section shall not apply to bonds issued—

(A) after October 13, 1987, by an authority created by a statute—

(i) approved by the State Governor on July 24, 1986 and

(ii) sections 1 through 10 of which became effective on January 15, 1987, and

(B) to provide facilities serving the area specified in such statute on the date of its enactment.

SEC. 10632. BONDS ISSUED BY INDIAN TRIBAL GOVERNMENTS.

(a) IN GENERAL.—Section 7871 is amended by adding at the end thereof the following new subsection:

"(e) ESSENTIAL GOVERNMENTAL FUNCTION.—For purposes of this section, the term 'essential governmental function' shall not include any function which is not customarily performed by State and local governments with general taxing powers."

(b) EXCEPTION FOR CERTAIN PRIVATE ACTIVITY BONDS.—

(1) IN GENERAL.—Subsection (c) of section 7871 (relating to additional requirements for tax-exempt bonds) is amended by adding at the end thereof the following new paragraph:

"(3) EXCEPTION FOR CERTAIN PRIVATE ACTIVITY BONDS.—

"(A) IN GENERAL.—In the case of an obligation to which this paragraph applies— 101 STAT. 1330-456

"(i) paragraph (2) shall not apply,

"(ii) such obligation shall be treated for purposes of this title as a qualified small issue bond, and

"(iii) section 146 shall not apply.

"(B) OBLIGATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any obligation issued as part of an issue if—

"(i) 95 percent or more of the net proceeds of the issue are to be used for the acquisition, construction, reconstruction, or improvement of property which is of a character subject to the allowance for depreciation and which is part of a manufacturing facility (as defined in section 144(a)(12)(C)),

"(ii) such issue is issued by an Indian tribal government or a subdivision thereof,

"(iii) 95 percent or more of the net proceeds of the issue are to be used to finance property which—

"(I) is to be located on land which, throughout the 5-year period ending on the date of issuance of such issue, is part of the qualified Indian lands of the issuer, and

"(II) is to be owned and operated by such issuer,

"(iv) such obligation would not be a private activity bond without regard to subparagraph (C),

"(v) it is reasonably expected (at the time of issuance of the issue) that the employment requirement of subparagraph (D)(i) will be met with respect to the facility to be financed by the net proceeds of the issue, and

"(vi) no principal user of such facility will be a person (or group of persons) described in section 144(a)(6)(B).

For purposes of clause (iii), section 150(a)(5) shall apply.

"(C) PRIVATE ACTIVITY BOND RULES TO APPLY.—An obligation to which this paragraph applies (other than an obligation described in paragraph (1)) shall be treated for purposes of this title as a private activity bond.

"(D) EMPLOYMENT REQUIREMENTS.—

"(i) IN GENERAL.—The employment requirements of this subparagraph are met with respect to a facility financed by the net proceeds of an issue if, as of the close of each calendar year in the testing period, the aggregate face amount of all outstanding tax-exempt private activity bonds issued to provide financing for the establishment which includes such facility is not more than 20 times greater than the aggregate wages (as defined by section 3121(a)) paid during the preceding calendar year to individuals (who are enrolled members of the Indian tribe of the issuer or the spouse of any such member) for services rendered at such establishment.

"(ii) FAILURE TO MEET REQUIREMENTS.—

"(I) IN GENERAL.—If, as of the close of any calendar year in the testing period, the requirements of this subparagraph are not met with respect to an establishment, section 103 shall cease to apply to interest received or accrued (on all private activity bonds issued to provide financing for the establishment) after the close of such calendar year.

101 STAT. 1330-457

"(II) EXCEPTION.—Subclause (I) shall not apply if the requirements of this subparagraph would be met if the aggregate face amount of all tax-exempt private activity bonds issued to provide financing for the establishment and outstanding at the close of the 90th day after the close of the calender year were substituted in clause (i) for such bonds outstanding at the close of such calendar year.

"(iii) TESTING PERIOD.—For purposes of this subparagraph, the term 'testing period' means, with respect to an issue, each calendar year which begins more than 2 years after the date of issuance of the issue (or, in the case of a refunding obligation, the date of issuance of the original issue).

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) QUALIFIED INDIAN LANDS.—The term 'qualified Indian lands' means land which is held in trust by the United States for the benefit of an Indian tribe.

"(ii) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(iii) NET PROCEEDS.—The term 'net proceeds' has the meaning given such term by section 150(a)(3)."

(2) TECHNICAL AMENDMENT.—Paragraph (2) of section 7871(c) is amended by striking out "Subsection (a)" and inserting in lieu thereof "Except as provided in paragraph (3), subsection (a)".

26 USC 7871 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after October 13, 1987.

Subtitle G—Lobbying and Political Activities of Tax-Exempt Organizations

PART I—DISCLOSURE REQUIREMENTS

SEC. 10701. REQUIRED DISCLOSURE OF NONDEDUCTIBILITY OF CONTRIBUTIONS.

(a) GENERAL RULE.—Subchapter B of chapter 61 (relating to miscellaneous provisions) is amended by redesignating section 6113 as section 6114 and by inserting after section 6112 the following new section:

"SEC. 6113. DISCLOSURE OF NONDEDUCTIBILITY OF CONTRIBUTIONS. 26 USC 6113.

"(a) GENERAL RULE.—Each fundraising solicitation by (or on behalf of) an organization to which this section applies shall contain an express statement (in a conspicuous and easily recognizable format) that contributions or gifts to such organization are not deductible as charitable contributions for Federal income tax purposes.

"(b) ORGANIZATIONS TO WHICH SECTION APPLIES.— 101 STAT. 1330-458

"(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall apply to any organization which is not described in section 170(c) and which—

"(A) is described in subsection (c) (other than paragraph (1) thereof) or (d) of section 501 and exempt from taxation under section 501(a),

"(B) is a political organization (as defined in section 527(e)), or

"(C) was an organization described in subparagraph (A) or (B) at any time during the 5-year period ending on the date of the fundraising solicitation or is a successor to an organization so described at any time during such 5-year period.

"(2) EXCEPTION FOR SMALL ORGANIZATIONS.—

"(A) ANNUAL GROSS RECEIPTS DO NOT EXCEED $100,000.—This section shall not apply to any organization the gross receipts of which in each taxable year are normally not more than $100,000.

"(B) MULTIPLE ORGANIZATION RULE.—The Secretary may treat any group of 2 or more organizations as 1 organization for purposes of subparagraph (A) where necessary or appropriate to prevent the avoidance of this section through the use of multiple organizations.

"(3) SPECIAL RULE FOR CERTAIN FRATERNAL ORGANIZATIONS.—For purposes of paragraph (1), an organization described in section 170(c)(4) shall be treated as described in section 170(c) only with respect to solicitations for contributions or gifts which are to be used exclusively for purposes referred to in section 170(c)(4).

"(c) FUNDRAISING SOLICITATION.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'fundraising solicitation' means any solicitation of contributions or gifts which is made—

"(A) in written or printed form,

"(B) by television or radio, or

"(C) by telephone.

"(2) EXCEPTION FOR CERTAIN LETTERS OR CALLS.—The term 'fundraising solicitation' shall not include any letter or telephone call if such letter or call is not part of a coordinated fundraising campaign soliciting more than 10 persons during the calendar year."

(b) PENALTY.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

26 USC 6710.

"SEC. 6710. FAILURE TO DISCLOSE THAT CONTRIBUTIONS ARE NONDEDUCTIBLE.

"(a) IMPOSITION OF PENALTY.—If there is a failure to meet the requirement of section 6113 with respect to a fundraising solicitation by (or on behalf of) an organization to which section 6113 applies, such organization shall pay a penalty of $1,000 for each day on which such a failure occurred. The maximum penalty imposed under this subsection on failures by any organization during any calendar year shall not exceed $10,000.

"(b) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.

101 STAT. 1330-459

"(c) $10,000 LIMITATION NOT TO APPLY WHERE INTENTIONAL DISREGARD.—If any failure to which subsection (a) applies is due to intentional disregard of the requirement of section 6113—

"(1) the penalty under subsection (a) for the day on which such failure occurred shall be the greater of—

"(A) $1,000, or

"(B) 50 percent of the aggregate cost of the solicitations which occurred on such day and with respect to which there was such a failure,

"(2) the $10,000 limitation of subsection (a) shall not apply to any penalty under subsection (a) for the day on which such failure occurred, and

"(3) such penalty shall not be taken into account in applying such limitation to other penalties under subsection (a).

"(d) DAY ON WHICH FAILURE OCCURS.—For purposes of this section, any failure to meet the requirement of section 6113 with respect to a solicitation—

"(1) by television or radio, shall be treated as occurring when the solicitation was telecast or broadcast,

"(2) by mail, shall be treated as occurring when the solicitation was mailed,

"(3) not by mail but in written or printed form, shall be treated as occurring when the solicitation was distributed, or

"(4) by telephone, shall be treated as occurring when the solicitation was made."

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6113 and inserting in lieu thereof the following:

"Sec. 6113. Disclosure of nondeductibility of contributions.
"Sec. 6114. Cross reference."

(2) The table of sections for part I of subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6710. Failure to disclose that contributions are nondeductible."

26 USC 6113 note

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to solicitations after January 31, 1988.

SEC. 10702. PUBLIC INSPECTION OF ANNUAL RETURNS AND APPLICATIONS FOR TAX-EXEMPT STATUS.

(a) GENERAL RULE.—Section 6104 (relating to publicity of information required from certain tax-exempt organizations and certain trusts) is amended by adding at the end thereof the following new subsection:

"(e) PUBLIC INSPECTION OF CERTAIN ANNUAL RETURNS AND APPLICATIONS FOR EXEMPTION.—

"(1) ANNUAL RETURNS.—

Public information.

"(A) IN GENERAL.—During the 3-year period beginning on the filing date, a copy of the annual return filed under section 6033 (relating to returns by exempt organizations) by any organization to which this paragraph applies shall

be made available by such organization for inspection during regular business hours by any individual at the principal office of the organization and, if such organization regularly maintains 1 or more regional or district offices 101 STAT. 1330-460
having 3 or more employees, at each such regional or district office.

"(B) ORGANIZATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any organization which—

"(i) is described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a), and

"(ii) is not a private foundation (within the meaning of section 509(a)).

"(C) NONDISCLOSURE OF CONTRIBUTORS.—Subparagraph (A) shall not require the disclosure of the name or address of any contributor to the organization.

"(D) FILING DATE.—For purposes of subparagraph (A), the term 'filing date' means the last day prescribed for filing the return under section 6033 (determined with regard to any extension of time for filing).

"(2) APPLICATION FOR EXEMPTION.—

"(A) IN GENERAL.—If—

"(i) an organization described in subsection (c) or (d) of section 501 is exempt from taxation under section 501(a), and

"(ii) such organization filed an application for recognition of exemption under section 501, Public information.

a copy of such application (together with a copy of any papers submitted in support of such application and any letter or other document issued by the Internal Revenue Service with respect to such application) shall be made available by the organization for inspection during regular business hours by any individual at the principal office of the organization and, if the organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office.

"(B) NONDISCLOSURE OF CERTAIN INFORMATION.—Subparagraph (A) shall not require the disclosure of any information if the Secretary withheld such information from public inspection under subsection (a)(1)(D)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply— 26 USC 6104 note.

(1) to returns for years beginning after December 31, 1986, and

(2) on and after the 30th day after the date of the enactment of this Act in the case of applications submitted to the Internal Revenue Service—

(A) after July 15, 1987, or

(B) on or before July 15, 1987, if the organization has a copy of the application on July 15, 1987.

SEC. 10703. ADDITIONAL INFORMATION REQUIRED ON ANNUAL RETURNS OF SECTION 501(c)(3) ORGANIZATIONS.

(a) GENERAL RULE.—Subsection (b) of section 6033 (relating to certain organizations described in section 501(c)(3)) [128] is amended by striking out "and" at the end of paragraph (7), by striking out the period at the end of paragraph (8) and inserting in lieu thereof a comma, and by inserting after paragraph (8) the following new paragraphs: 101 STAT. 1330-461

"(9) such other information with respect to direct or indirect transfers to, and other direct or indirect transactions and relationships with, other organizations described in section 501(c)

[128] Copy read "503(c)(3))".

(other than paragraph (3) thereof) or section 527 as the Secretary may require to prevent—

"(A) diversion of funds from the organization's exempt purpose, or

"(B) misallocation of revenues or expenses, and

"(10) such other information for purposes of carrying out the internal revenue laws as the Secretary may require."

26 USC 6033 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to returns for years beginning after December 31, 1987.

SEC. 10704. PENALTIES.

(a) GENERAL RULE.—Subsection (c) of section 6652 (relating to returns by exempt organizations and by certain trusts) is amended to read as follows:

"(c) RETURNS BY EXEMPT ORGANIZATIONS AND BY CERTAIN TRUSTS.—

"(1) ANNUAL RETURNS UNDER SECTION 6033.—

"(A) PENALTY ON ORGANIZATION.—In the case of—

"(i) a failure to file a return required under section 6033 (relating to returns by exempt organizations) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), or

"(ii) a failure to include any of the information required to be shown on a return filed under section 6033 or to show the correct information,

there shall be paid by the exempt organization $10 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 return shall not exceed the lesser of $5,000 or 5 percent of the gross receipts of the organization for the year.

"(B) MANAGERS.—

"(i) IN GENERAL.—The Secretary may make a written demand on any organization subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the return shall be filed (or the information furnished) for purposes of this subparagraph.

"(ii) FAILURE TO COMPLY WITH DEMAND.—If any person fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by the person failing to so comply $10 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with respect to any 1 return shall not exceed $5,000.

"(C) PUBLIC INSPECTION OF ANNUAL RETURNS.—In the case of a failure to comply with the requirements of subsection (d) or (e)(1) of section 6104 (relating to public inspection of annual returns) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), there shall be paid by the person failing to meet such requirements $10 for each day during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with respect to any 1 return shall not exceed $5,000.

101 STAT. 1330-462

"(D) PUBLIC INSPECTION OF APPLICATIONS FOR EXEMPTION.—In the case of a failure to comply with the requirements of section 6104(e)(2) (relating to public inspection of applications for exemption) on the date and in the manner prescribed therefor, there shall be paid by the person failing to meet such requirements $10 for each day during which such failure continues.

"(2) RETURNS UNDER SECTION 6034 OR 6043(b).—

"(A) PENALTY ON ORGANIZATION OR TRUST.—In the case of a failure to file a return required under section 6034 (relating to returns by certain trusts) or section 6043(b) (relating to terminations, etc., of exempt organizations), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), there shall be paid by the exempt organization or trust failing so to file $10 for each day during which such failure continues, but the total amount imposed under this subparagraph on any organization or trust for failure to file any 1 return shall not exceed $5,000.

"(B) MANAGERS.—The Secretary may make written demand on an organization or trust failing to file under subparagraph (A) specifying therein a reasonable future date by which such filing shall be made for purposes of this subparagraph. If such filing is not made on or before such date, there shall be paid by the person failing so to file $10 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed under this subparagraph on all persons for failure to file any 1 return shall not exceed $5,000.

"(3) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this subsection with respect to any failure if it is shown that such failure is due to reasonable cause.

"(4) OTHER SPECIAL RULES.—

"(A) TREATMENT AS TAX.—Any penalty imposed under this subsection shall be paid on notice and demand of the Secretary and in the same manner as tax.

"(B) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable under this subsection for any penalty with respect to any failure, all such persons shall be jointly and severally liable with respect to such failure.

"(C) PERSON.—For purposes of this subsection, the term 'person' means any officer, director, trustee, employee, or other individual who is under a duty to perform the act in respect of which the violation occurs."

(b) WILLFUL FAILURE TO PERMIT PUBLIC INSPECTION.—

(1) IN GENERAL.—Section 6685 (relating to assessable penalty with respect to private foundation annual returns) is amended to read as follows:

101 STAT. 1330-463

"SEC. 6685. ASSESSABLE PENALTY WITH RESPECT TO PUBLIC INSPECTION REQUIREMENTS FOR CERTAIN TAX-EXEMPT ORGANIZATIONS.

26 USC 6685.

"In addition to the penalty imposed by section 7207 (relating to fraudulent returns, statements, or other documents), any person who is required to comply with the requirements of subsection (d) or (e) of section 6104 and who fails to so comply with respect to any return or application, if such failure is willful, shall pay a penalty of $1,000 with respect to each such return or application."

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking out the item relating to section 6685 and inserting in lieu thereof the following:

"Sec. 6685. Assessable penalty with respect to public inspection requirements for certain tax-exempt organizations."

(c) FURNISHING FRAUDULENT INFORMATION.—Section 7207 (relating to fraudulent returns, statements, or other documents) is amended by striking out "subsection (d) of section 6104" and inserting in lieu thereof "subsection (d) or (e) of section 6104".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply—

26 USC 6652 note.

(1) to returns for years beginning after December 31, 1986, and

(2) on and after the date of the enactment of this Act in the case of applications submitted to the Internal Revenue Service—

(A) after July 15, 1987, or

(B) on or before July 15, 1987, if the organization has a copy of the application on July 15, 1987.

SEC. 10705. REQUIRED DISCLOSURE THAT CERTAIN INFORMATION OR SERVICE AVAILABLE FROM FEDERAL GOVERNMENT.

(a) GENERAL RULE.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

26 USC 6711.

"SEC. 6711. FAILURE BY TAX-EXEMPT ORGANIZATION TO DISCLOSE THAT CERTAIN INFORMATION OR SERVICE AVAILABLE FROM FEDERAL GOVERNMENT.

"(a) IMPOSITION OF PENALTY.—If—

"(1) a tax-exempt organization offers to sell (or solicits money for) specific information or a routine service for any individual which could be readily obtained by such individual free of charge (or for a nominal charge) from an agency of the Federal Government,

"(2) the tax-exempt organization, when making such offer or solicitation, fails to make an express statement (in a conspicuous and easily recognizable format) that the information or service can be so obtained, and

"(3) such failure is due to intentional disregard of the requirements of this subsection,

such organization shall pay a penalty determined under subsection (b) for each day on which such a failure occurred.

"(b) AMOUNT OF PENALTY.—The penalty under subsection (a) for any day on which a failure referred to in such subsection occurred shall be the greater of—

101 STAT. 1330-464

"(1) $1,000, or

"(2) 50 percent of the aggregate cost of the offers and solicitations referred to in subsection (a)(1) which occurred on such day and with respect to which there was such a failure.

"(c) DEFINITIONS.—For purposes of this section—

"(1) TAX-EXEMPT ORGANIZATION.—The term 'tax-exempt organization' means any organization which—

"(A) is described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a), or

"(B) is a political organization (as defined in section 527(e)).

"(2) DAY ON WHICH FAILURE OCCURS.—The day on which any failure referred to in subsection (a) occurs shall be determined under rules similar to the rules of section 6710(d)."

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6711. Failure by tax-exempt organization to disclose that certain information or service available from Federal Government."

26 USC 6711 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers and solicitations after January 31, 1988.

PART II—POLITICAL ACTIVITIES

SEC. 10711. CLARIFICATION OF PROHIBITED POLITICAL ACTIVITIES.

(a) GENERAL RULE.—The following provisions are each amended by striking out "on behalf of any candidate" and inserting in lieu thereof "on behalf of (or in opposition to) any candidate":

(1) Section 170(c)(2)(D).

(2) Section 501(c)(3).

(3) Paragraphs (2) and (3) of section 2055(a).

(4) Clauses (ii) and (iii) of section 2106(a)(2)(A).
(5) Section 2522(a)(2).
(6) Paragraphs (2) and (3) of section 2522(b).

(b) STATUS AFTER DISQUALIFICATION BECAUSE OF POLITICAL ACTIVITIES.—

(1) IN GENERAL.—Paragraph (2) of section 504(a) (relating to status after organization ceases to qualify for exemption under section 501(c)(3) because of substantial lobbying) is amended to read as follows:

"(2) is not an organization described in section 501(c)(3)—

"(A) by reason of carrying on propaganda, or otherwise attempting, to influence legislation, or

"(B) by reason of participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for public office,".

(2) CLERICAL AMENDMENTS.—

(A) The section heading for section 504 is amended by striking out "**SUBSTANTIAL LOBBYING**" and inserting in lieu thereof "**SUBSTANTIAL LOBBYING OR BECAUSE OF POLITICAL ACTIVITIES**".

(B) The table of sections for part I of subchapter F of chapter 1 is amended by striking out "substantial lobbying" in the item relating to section 504 and inserting in lieu thereof "substantial lobbying or because of political activities".

101 STAT. 1330-465

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to activities after the date of the enactment of this Act.

26 USC 170 note.

SEC. 10712. EXCISE TAXES ON POLITICAL EXPENDITURES BY SECTION 501(c)(3) ORGANIZATIONS.

(a) GENERAL RULE.—Chapter 42 (relating to excise taxes on private foundations and black lung benefit trusts) is amended by redesignating subchapter C as subchapter D and by inserting after subchapter B the following new subchapter:

"Subchapter C—Political Expenditures of Section 501(c)(3) Organizations

"Sec. 4955. Taxes on political expenditures of section 501(c)(3) organizations.

"SEC. 4955. TAXES ON POLITICAL EXPENDITURES OF SECTION 501(c)(3) ORGANIZATIONS.

26 USC 4955.

"(a) INITIAL TAXES.—

"(1) ON THE ORGANIZATION.—There is hereby imposed on each political expenditure by a section 501(c)(3) organization a tax equal to 10 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the organization.

"(2) ON THE MANAGEMENT.—There is hereby imposed on the agreement of any organization manager to the making of any expenditure, knowing that it is a political expenditure, a tax equal to 2½ percent of the amount thereof, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any organization manager who agreed to the making of the expenditure.

"(b) ADDITIONAL TAXES.—

"(1) ON THE ORGANIZATION.—In any case in which an initial tax is imposed by subsection (a)(1) on a political expenditure and such expenditure is not corrected within the taxable period, there is hereby imposed a tax equal to 100 percent of the amount of the expenditure. The tax imposed by this paragraph shall be paid by the organization.

"(2) ON THE MANAGEMENT.—In any case in which an additional tax is imposed by paragraph (1), if an organization manager refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount of the political expenditure. The tax imposed by this paragraph shall be paid by any organization manager who refused to agree to part or all of the correction.

"(c) SPECIAL RULES.—For purposes of subsections (a) and (b)—

"(1) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable under subsection (a)(2) or (b)(2) with respect to the making of a political expenditure, all such persons shall be jointly and severally liable under such subsection with respect to such expenditure.

"(2) LIMIT FOR MANAGEMENT.—With respect to any 1 political expenditure, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $5,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed $10,000.

101 STAT. 1330-466 "(d) POLITICAL EXPENDITURE.—For purposes of this section—

"(1) IN GENERAL.—The term 'political expenditure' means any amount paid or incurred by a section 501(c)(3) organization in any participation in, or intervention in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

"(2) CERTAIN OTHER EXPENDITURES INCLUDED.—In the case of an organization which is formed primarily for purposes of promoting the candidacy (or prospective candidacy) of an individual for public office (or which is effectively controlled by a candidate or prospective candidate and which is availed of primarily for such purposes), the term 'political expenditure' includes any of the following amounts paid or incurred by the organization:

"(A) Amounts paid or incurred to such individual for speeches or other services.

"(B) Travel expenses of such individual.

"(C) Expenses of conducting polls, surveys, or other studies, or preparing papers or other materials, for use by such individual.

"(D) Expenses of advertising, publicity, and fundraising for such individual.

"(E) Any other expense which has the primary effect of promoting public recognition, or otherwise primarily accruing to the benefit, of such individual.

"(e) COORDINATION WITH SECTION 4945.—If tax is imposed under this section with respect to any political expenditure, such expenditure shall not be treated as a taxable expenditure for purposes of section 4945.

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) SECTION 501(C)(3) ORGANIZATION.—The term 'section 501(c)(3) organization' means any organization which (without regard to any political expenditure) would be described in section 501(c)(3) and exempt from taxation under section 501(a).

"(2) ORGANIZATION MANAGER.—The term 'organization manager' means—

"(A) any officer, director, or trustee of the organization (or individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization), and

"(B) with respect to any expenditure, any employee of the organization having authority or responsibility with respect to such expenditure.

"(3) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any political expenditure, recovering part or all of the expenditure to the extent recovery is possible, establishment of safeguards to prevent future political expenditures, and

where full recovery is not possible, such additional corrective action as is prescribed by the Secretary by regulations.

"(4) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any political expenditure, the period beginning with the date on which the political expenditure occurs and ending on the earlier of—

"(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1), or

"(B) the date on which tax imposed by subsection (a)(1) is assessed."

101 STAT. 1330-467

(b) ABATEMENT OF FIRST TIER TAX IN CERTAIN CASES.—

(1) Section 4962 (relating to abatement of private foundation first tier taxes in certain cases) is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b) QUALIFIED FIRST TIER TAX.—For purposes of this section, the term 'qualified first tier tax' means any first tier tax imposed by subchapter A or C of this chapter, except that such term shall not include the tax imposed by section 4941(a) (relating to initial tax on self-dealing).

"(c) SPECIAL RULE FOR TAX ON POLITICAL EXPENDITURES OF SECTION 501(c)(3) ORGANIZATIONS.—In the case of the tax imposed by section 4955(a), subsection (a)(1) shall be applied by substituting 'not willful and flagrant' for 'due to reasonable cause and not to willful neglect'."

(2) Subsection (a) of section 4962 is amended by striking out "any private foundation first tier tax" and inserting in lieu thereof "any qualified first tier tax".

(3) Subsections (a), (b), and (c) of section 4963 are each amended by striking out "4952," and inserting in lieu thereof "4952, 4955,".

(4) The section heading for section 4962 is amended by striking out "**PRIVATE FOUNDATION**".

(5) The table of sections for subchapter D of chapter 42 (as redesignated by this section) is amended by striking out "private foundation" in the item relating to section 4962.

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (e) of section 6213 is amended by striking out "4971" and inserting in lieu thereof "4955 (relating to taxes on political expenditures), 4971".

(2) Paragraph (1) of section 6501(l) is amended by striking out "plan, or trust" and inserting in lieu thereof "plan, trust, or other organization".

(3) Subsection (g) of section 6503 is amended by striking out "4951, 4952,".

(4) Section 6684 is amended by striking out "private foundations" and inserting in lieu thereof "private foundations and certain other tax-exempt organizations".

(5) Paragraphs (2) and (3) of section 7422(g) are each amended by striking out "4952," and inserting in lieu thereof "4952, 4955,".

(6) Subsection (b) of section 7454 is amended by striking out "the burden of proof" and inserting in lieu thereof "or whether an organization manager (as defined in section 4955(e)(2)) has 'knowingly' agreed to the making of a political expenditure (within the meaning of section 4955), the burden of proof".

(7) The chapter heading for chapter 42 is amended by striking out "**BLACK LUNG BENEFIT TRUSTS**" and inserting in lieu thereof "**AND CERTAIN OTHER TAX-EXEMPT ORGANIZATIONS**".

(8) The table of chapters for subtitle D of such Code is amended by striking out "black lung benefit trusts" in the item relating to chapter 42 and inserting in lieu thereof "and certain other tax-exempt organizations".

(9) The table of subchapters for chapter 42 is amended by striking out the item relating to subchapter C and inserting in lieu thereof the following:

101 STAT. 1330-468

"SUBCHAPTER C. Political expenditures of section 501(c)(3) organizations.
"SUBCHAPTER D. Abatement of first and second-tier taxes in certain cases."

26 USC 4955 note.

(d) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 10713. ADDITIONAL ENFORCEMENT AUTHORITY IN THE CASE OF FLAGRANT POLITICAL EXPENDITURES.

(a) AUTHORITY TO ENJOIN FLAGRANT POLITICAL EXPENDITURES.—
(1) IN GENERAL.—Subchapter A of chapter 76 (relating to civil actions by the United States) is amended by redesignating section 7409 as section 7410 and by inserting after section 7408 the following new section:

26 USC 7409.

"SEC. 7409. ACTION TO ENJOIN FLAGRANT POLITICAL EXPENDITURES OF SECTION 501(c)(3) ORGANIZATIONS.

"(a) AUTHORITY TO SEEK INJUNCTION.—
"(1) IN GENERAL.—If the requirements of paragraph (2) are met, a civil action in the name of the United States may be commenced at the request of the Secretary to enjoin any section 501(c)(3) organization from further making political expenditures and for such other relief as may be appropriate to ensure that the assets of such organization are preserved for charitable or other purposes specified in section 501(c)(3). Any action under this section shall be brought in the district court of the United States for the district in which such organization has its principal place of business or for any district in which it has made political expenditures. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such organization.
"(2) REQUIREMENTS.—An action may be brought under subsection (a) only if—
"(A) the Internal Revenue Service has notified the organization of its intention to seek an injunction under this section if the making of political expenditures does not immediately cease, and
"(B) the Commissioner of Internal Revenue has personally determined that—
"(i) such organization has flagrantly participated in, or intervened in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office, and
"(ii) injunctive relief is appropriate to prevent future political expenditures.

"(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds on the basis of clear and convincing evidence that—
"(1) such organization has flagrantly participated in, or intervened in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office, and
"(2) injunctive relief is appropriate to prevent future political expenditures,

the court may enjoin such organization from making political
101 STAT. 1330-469 expenditures and may grant such other relief as may be appropriate to ensure that the assets of such organization are preserved for charitable or other purposes specified in section 501(c)(3).

"(c) DEFINITIONS.—For purposes of this section, the terms 'section 501(c)(3) organization' and 'political expenditures' have the respective meanings given to such terms by section 4955."

(2) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 76 is amended by striking the item relating to section 7409 and inserting in lieu thereof the following:

"Sec. 7409. Action to enjoin flagrant political expenditures of section 501(c)(3) organizations.
"Sec. 7410. Cross references."

(b) AUTHORITY TO MAKE IMMEDIATE ASSESSMENTS.—

(1) IN GENERAL.—Part I of subchapter A of chapter 70 (relating to termination of taxable year) is amended by adding at the end thereof the following new section:

"SEC. 6852. TERMINATION ASSESSMENTS IN CASE OF FLAGRANT POLITICAL EXPENDITURES OF SECTION 501(c)(3) ORGANIZATIONS. 26 USC 6852.

"(a) AUTHORITY TO MAKE.—

"(1) IN GENERAL.—If the Secretary finds that—

"(A) a section 501(c)(3) organization has made political expenditures, and

"(B) such expenditures constitute a flagrant violation of the prohibition against making political expenditures,

the Secretary shall immediately make a determination of any income tax payable by such organization for the current or immediately preceding taxable year, or both, and shall immediately make a determination of any tax payable under section 4955 by such organization or any manager thereof with respect to political expenditures during the current or preceding taxable year, or both. Notwithstanding any other provision of law, any such tax shall become immediately due and payable. The Secretary shall immediately assess the amount of tax so determined (together with all interest, additional amounts, and additions to the tax provided by law) for the current year or the preceding taxable year, or both, and shall cause notice of such determination and assessment to be given to the organization or any manager thereof, as the case may be, together with a demand for immediate payment of such tax.

"(2) COMPUTATION OF TAX.—In the case of a current taxable year, the Secretary shall determine the taxes for the period beginning on the 1st day of such current taxable year and ending on the date of the determination under paragraph (1) as though such period were a taxable year of the organization, and shall take into account any prior determination made under this subsection with respect to such current taxable year.

"(3) TREATMENT OF AMOUNTS COLLECTED.—Any amounts collected as a result of any assessments under this subsection shall, to the extent thereof, be treated as a payment of income tax for such taxable year, or tax under section 4955 with respect to the expenditure, as the case may be.

"(4) SECTION INAPPLICABLE TO ASSESSMENTS AFTER DUE DATE.—This section shall not authorize any assessment of tax for the preceding taxable year which is made after the due date of the organization's return for such taxable year (determined with regard to any extensions).

101 STAT. 1330-470

"(b) DEFINITIONS AND SPECIAL RULES.—

"(1) DEFINITIONS.—For purposes of this section, the terms 'section 501(c)(3) organization', 'political expenditure', and 'organization manager' have the respective meanings given to such terms by section 4955.

"(2) CERTAIN RULES MADE APPLICABLE.—The provisions of sections 6851(b), 6861(f), and 6861(g) shall apply with respect to any assessment made under subsection (a), except that determinations under section 6861(g) shall be made on the basis of whether the requirements of subsection (a)(1)(B) of this section are met in lieu of whether jeopardy exists."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Clause (v) of section 6091(b)(1)(B) is amended by striking out "section 6851(a)" and inserting in lieu thereof "section 6851(a) or 6852(a)".

(B) Paragraph (1) of section 6211(b) is amended by striking out "section 6851" and inserting in lieu thereof "section 6851 or 6852".

(C) Paragraph (1) of section 6212(c) is amended by striking out "section 6851" and inserting in lieu thereof "section 6851 or 6852".

(D) Subsection (a) of section 6213 is amended by striking out "section 6851 or section 6861" and inserting in lieu thereof "section 6851, 6852, or 6861".

(E) Section 6863 is amended—

(i) by striking out "6851" in subsection (a) and inserting in lieu thereof "6851, 6852,",

(ii) by striking out "6851 or 6861" in subsection (b)(3)(A) and inserting in lieu thereof "6851, 6852, or 6861", and

(iii) by striking out "6851(a) or 6861(a)" and inserting in lieu thereof "6851(a), 6852(a), or 6861(a)".

(F) Section 7429 is amended—

(i) by striking out "6851(a)," each place it appears and inserting in lieu thereof "6851(a), 6852(a),", and

(ii) by striking out "6851," each place it appears and inserting in lieu thereof "6851, 6852,".

(G) Paragraph (3) of section 7611(i) is amended by striking out "or section 6861" and inserting in lieu thereof "section 6852 relating to termination assessments in case of political expenditures of section 501(c)(3), or 6861".

(H) The table of sections for part I of subchapter 70 is amended by adding at the end thereof the following new item:

"Sec. 6852. Termination assessments in case of flagrant political expenditures of section 501(c)(3) organizations."

26 USC 6091 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 10714. TAX ON DISQUALIFYING LOBBYING EXPENDITURES.

(a) GENERAL RULE.—Chapter 41 (relating to public charities) is amended by adding at the end thereof the following new section:

26 USC 4912.

"SEC. 4912. TAX ON DISQUALIFYING LOBBYING EXPENDITURES OF CERTAIN ORGANIZATIONS.

101 STAT. 1330–471

"(a) TAX ON ORGANIZATION.—If an organization to which this section applies is not described in section 501(c)(3) for any taxable year by reason of making lobbying expenditures, there is hereby imposed a tax on the lobbying expenditures of such organization for such taxable year equal to 5 percent of the amount of such expenditures. The tax imposed by this subsection shall be paid by the organization.

"(b) ON MANAGEMENT.—If tax is imposed under subsection (a) on the lobbying expenditures of any organization, there is hereby imposed on the agreement of any organization manager to the making of any such expenditures, knowing that such expenditures are likely to result in the organization not being described in section 501(c)(3), a tax equal to 5 percent of the amount of such expenditures, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this subsection shall be paid by any manager who agreed to the making of the expenditures.

"(c) ORGANIZATIONS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply to any organization which was exempt (or was determined by the Secretary to be exempt) from taxation under section 501(a) by reason of being an organization described in section 501(c)(3).

"(2) EXCEPTIONS.—This section shall not apply to any organization—

"(A) to which an election under section 501(h) applies,

"(B) which is a disqualified organization (within the meaning of section 501(h)(5)), or

"(C) which is a private foundation.

"(d) DEFINITIONS.—

"(1) LOBBYING EXPENDITURES.—The term 'lobbying expenditure' means any amount paid or incurred by the organization in carrying on propaganda, or otherwise attempting to influence legislation.

"(2) ORGANIZATION MANAGER.—The term 'organization manager' has the meaning given to such term by section 4955(f)(2).

"(3) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable under subsection (b), all such persons shall be jointly and severally liable under such subsection."

(b) BURDEN OF PROOF.—Subsection (b) of section 7454 (as amended by this Act) is amended by striking out "the burden of proof" and inserting in lieu thereof ", or whether an organization manager (as defined in section 4912(d)(2)) has 'knowingly' agreed to the making of disqualifying lobbying expenditures within the meaning of section 4912(b), the burden of proof".

(c) TECHNICAL AMENDMENT.—Paragraph (1) of section 6501(l) is amended by striking out "by chapter 42 (other than section 4940)" and inserting in lieu thereof "by section 4912, by chapter 42 (other than section 4940),".

(d) CLERICAL AMENDMENT.—The table of sections for chapter 41 is amended by adding at the end thereof the following new item:

"Sec. 4912. Tax on disqualifying lobbying expenditures of certain organizations."

101 STAT. 1330-472

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

26 USC 4912 note.

Approved December 22, 1987.

Certified April 20, 1988.

Editorial note: This printed version of the original hand enrollment is published pursuant to section 8004(c) of this law. The following memorandum for the Archivist of the United States was signed by the President on January 28, 1988, and was printed in the *Federal Register* on February 1, 1988:

By the authority vested in me as President by the Constitution and laws of the United States, including Section 301 of Title 3 of the United States Code, I hereby authorize you to ascertain whether the printed enrollments of H.J. Res. 395, Joint Resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202), and H.R. 3545, the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), are correct printings of the hand enrollments, which were approved on December 22, 1987, and if so to make on my behalf the certifications required by Section 101(n)(4) of H.J. Res. 395 and Section 8004(c) of H.R. 3545.

Attached are the printed enrollments of H.J. Res. 395 and H.R. 3545, which were received at the White House on January 27, 1988.

This memorandum shall be published in the *Federal Register*.

The Archivist on April 20, 1988, certified this to be a correct printing of the hand enrollment of Public Law 100-203.

LEGISLATIVE HISTORY—H.R. 3545 (S. 1920):

HOUSE REPORTS: No. 100-391 (Comm. on the Budget) and No. 100-495 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 133 (1987):

Oct. 29, considered and passed House.

Dec. 9, S. 1920 considered in Senate.

Dec. 10, H.R. 3545 considered and passed Senate, amended, in lieu of S. 1920.

Dec. 21, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):

Dec. 22, Presidential remarks.

Public Law 100-12
100th Congress

101 STAT. 103

An Act

To amend the Energy Policy and Conservation Act with respect to energy conservation standards for appliances.

Mar. 17, 1987
[S. 83]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Appliance Energy Conservation Act of 1987. 42 USC 6201 note.

SECTION 1. SHORT TITLE.

This Act may be referred to as the "National Appliance Energy Conservation Act of 1987".

SEC. 2. DEFINITIONS.

(a) ENERGY CONSERVATION STANDARD.—Section 321(a)(6) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)(6)) is amended to read as follows:

"(6) The term 'energy conservation standard' means—

"(A) a performance standard which prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a covered product, determined in accordance with test procedures prescribed under section 323; or

"(B) a design requirement for the products specified in paragraphs (6), (7), (8), (10), and (13) of section 322(a); and

includes any other requirements which the Secretary may prescribe under section 325(o)."

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(b) NEW DEFINITIONS.—Section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)) is amended by adding at the end the following paragraphs:

"(19) The term 'AV' is the adjusted volume for refrigerators, refrigerator-freezers, and freezers, as defined in the applicable test procedure prescribed under section 323.

"(20) The term 'annual fuel utilization efficiency' means the efficiency descriptor for furnaces and boilers, determined using test procedures prescribed under section 323 and based on the assumption that all—

"(A) weatherized warm air furnaces or boilers are located out-of-doors;

"(B) warm air furnaces which are not weatherized are located indoors and all combustion and ventilation air is admitted through grills or ducts from the outdoors and does not communicate with air in the conditioned space; and

"(C) boilers which are not weatherized are located within the heated space.

"(21) The term 'central air conditioner' means a product, other than a packaged terminal air conditioner, which—

"(A) is powered by single phase electric current;

"(B) is air-cooled;

"(C) is rated below 65,000 Btu per hour;

"(D) is not contained within the same cabinet as a furnace the rated capacity of which is above 225,000 Btu per hour; and

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"(E) is a heat pump or a cooling only unit.

"(22) The term 'efficiency descriptor' means the ratio of the useful output to the total energy input, determined using the

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test procedures prescribed under section 323 and expressed for the following products in the following terms:

"(A) For furnaces and direct heating equipment, annual fuel utilization efficiency.

"(B) For room air conditioners, energy efficiency ratio.

"(C) For central air conditioning and central air conditioning heat pumps, seasonal energy efficiency ratio.

"(D) For water heaters, energy factor.

"(E) For pool heaters, thermal efficiency.

"(23) The term 'furnace' means a product which utilizes only single-phase electric current, or single-phase electric current or DC current in conjunction with natural gas, propane, or home heating oil, and which—

"(A) is designed to be the principal heating source for the living space of a residence;

"(B) is not contained within the same cabinet with a central air conditioner whose rated cooling capacity is above 65,000 Btu per hour;

"(C) is an electric central furnace, electric boiler, forced-air central furnace, gravity central furnace, or low pressure steam or hot water boiler; and

"(D) has a heat input rate of less than 300,000 Btu per hour for electric boilers and low pressure steam or hot water boilers and less than 225,000 Btu per hour for forced-air central furnaces, gravity central furnaces, and electric central furnaces.

"(24) The terms 'heat pump' or 'reverse cycle' mean a product, other than a packaged terminal heat pump, which—

"(A) consists of one or more assemblies;

"(B) is powered by single phase electric current;

"(C) is rated below 65,000 Btu per hour;

"(D) utilizes an indoor conditioning coil, compressors, and refrigerant-to-outdoor-air heat exchanger to provide air heating; and

"(E) may also provide air cooling, dehumidifying, humidifying circulating, and air cleaning.

"(25) The term 'pool heater' means an appliance designed for heating nonpotable water contained at atmospheric pressure, including heating water in swimming pools, spas, hot tubs and similar applications.

"(26) The term 'thermal efficiency of pool heaters' means a measure of the heat in the water delivered at the heater outlet divided by the heat input of the pool heater as measured under test conditions specified in section 2.8.1 of the American National Standard for Gas Fired Pool Heaters, Z21.56–1986, or as may be prescribed by the Secretary.

"(27) The term 'water heater' means a product which utilizes oil, gas, or electricity to heat potable water for use outside the heater upon demand, including—

"(A) storage type units which heat and store water at a thermostatically controlled temperature, including gas storage water heaters with an input of 75,000 Btu per hour or less, oil storage water heaters with an input of 105,000 Btu per hour or less, and electric storage water heaters with an input of 12 kilowatts or less;

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"(B) instantaneous type units which heat water but contain no more than one gallon of water per 4,000 Btu per hour of input, including gas instantaneous water heaters with an input of 200,000 Btu per hour or less, oil instantaneous water heaters with an input of 210,000 Btu per hour or less, and electric instantaneous water heaters with an input of 12 kilowatts or less; and

"(C) heat pump type units, with a maximum current rating of 24 amperes at a voltage no greater than 250 volts, which are products designed to transfer thermal energy

from one temperature level to a higher temperature level for the purpose of heating water, including all ancillary equipment such as fans, storage tanks, pumps, or controls necessary for the device to perform its function.

"(28) The term 'weatherized warm air furnace or boiler' means a furnace or boiler designed for installation outdoors, approved for resistance to wind, rain, and snow, and supplied with its own venting system."

SEC. 3. COVERAGE.

Section 322(a) of the Energy Policy and Conservation Act (42 U.S.C. 6292(a)) is amended to read as follows:

"COVERAGE

"SEC. 322. (a) IN GENERAL.—The following consumer products, excluding those consumer products designed solely for use in recreational vehicles and other mobile equipment, are covered products:

"(1) Refrigerators, refrigerator-freezers, and freezers which can be operated by alternating current electricity, excluding—

"(A) any type designed to be used without doors; and

"(B) any type which does not include a compressor and condenser unit as an integral part of the cabinet assembly.

"(2) Room air conditioners.

"(3) Central air conditioners and central air conditioning heat pumps.

"(4) Water heaters.

"(5) Furnaces.

"(6) Dishwashers.

"(7) Clothes washers.

"(8) Clothes dryers.

"(9) Direct heating equipment.

"(10) Kitchen ranges and ovens.

"(11) Pool heaters.

"(12) Television sets.

"(13) Any other type of consumer product which the Secretary classifies as a covered product under subsection (b)."

SEC. 4. TEST PROCEDURES.

Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended to read as follows: 101 STAT. 106

"TEST PROCEDURES

"SEC. 323. (a) GENERAL RULE.—All test procedures and related determinations prescribed or made by the Secretary with respect to any covered product (or class thereof) which are in effect on the date of enactment of the National Appliance Energy Conservation Act of 1987 shall remain in effect until the Secretary amends such test procedures and related determinations under subsection (b).

"(b) AMENDED AND NEW PROCEDURES.—(1)(A) The Secretary may amend test procedures with respect to any covered product if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of paragraph (3).

"(B) The Secretary may, in accordance with the requirements of this subsection, prescribe test procedures for any consumer product classified as a covered product under section 322(b). 42 USC 6292.

"(C) The Secretary shall direct the National Bureau of Standards to assist in developing new or amended test procedures.

"(2) If the Secretary determines, on his own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, the Secretary shall promptly publish in the Federal Register proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and Federal Register, publication.

arguments with respect to such procedures. The comment period shall not be less than 60 days and may be extended for good cause shown to not more than 270 days. In prescribing or amending a test procedure, the Secretary shall take into account such information as the Secretary determines relevant to such procedure, including technological developments relating to energy use or energy efficiency of the type (or class) of covered products involved.

"(3) Any test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use, as determined by the Secretary, and shall not be unduly burdensome to conduct.

"(4) If the test procedure is a procedure for determining estimated annual operating costs, such procedure shall provide that such costs shall be calculated from measurements of energy use in a representative average use cycle or period of use, as determined by the Secretary, and from representative average unit costs of the energy needed to operate such product during such cycle. The Secretary shall provide information to manufacturers with respect to representative average unit costs of energy.

"(c) RESTRICTION ON CERTAIN REPRESENTATIONS.—(1) No manufacturer, distributor, retailer, or private labeler may make any representation—

"(A) in writing (including a representation on a label); or

"(B) in any broadcast advertisement,

with respect to the energy use or efficiency of a covered product to which a test procedure is applicable under subsection (a) or the cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

Effective date.

"(2) Effective 180 days after an amended or new test procedure applicable to a covered product is prescribed under subsection (b), no manufacturer, distributor, retailer, or private labeler may make any

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representation—

"(A) in writing (including a representation on a label); or

"(B) in any broadcast advertisement,

with respect to energy use or efficiency of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such amended or new test procedures and such representation fairly discloses the results of such testing.

"(3) On the petition of any manufacturer, distributor, retailer, or private labeler, filed not later than the 60th day before the expiration of the period involved, the 180-day period referred to in paragraph (2) may be extended by the Secretary with respect to the petitioner (but in no event for more than an additional 180 days) if the Secretary determines that the requirements of paragraph (2) would impose an undue hardship on such petitioner.

Federal Register, publication.

"(d) CASE IN WHICH TEST PROCEDURE IS NOT REQUIRED.—(1) The Secretary is not required to publish and prescribe test procedures for a covered product (or class thereof) if the Secretary determines, by rule, that test procedures cannot be developed which meet the requirements of subsection (b)(3) and publishes such determination in the Federal Register, together with the reasons therefor.

Post, p. 117.

"(2) For purposes of section 327, a determination under paragraph (1) with respect to any covered product or class shall have the same effect as would a standard prescribed for a covered product (or class).

"(e) AMENDMENT OF STANDARD.—(1) In the case of any amended test procedure which is prescribed pursuant to this section, the Secretary shall determine, in the rulemaking carried out with respect to prescribing such procedure, to what extent, if any, the proposed test procedure would alter the measured energy efficiency or measured energy use of any covered product as determined under the existing test procedure.

"(2) If the Secretary determines that the amended test procedure will alter the measured efficiency or measured use, the Secretary shall amend the applicable energy conservation standard during the rulemaking carried out with respect to such test procedure. In determining the amended energy conservation standard, the Secretary shall measure, pursuant to the amended test procedure, the energy efficiency or energy use of a representative sample of covered products that minimally comply with the existing standard. The average of such energy efficiency or energy use levels determined under the amended test procedure shall constitute the amended energy conservation standard for the applicable covered products.

"(3) Models of covered products in use before the date on which the amended energy conservation standard becomes effective (or revisions of such models that come into use after such date and have the same energy efficiency or energy use characteristics) that comply with the energy conservation standard applicable to such covered products on the day before such date shall be deemed to comply with the amended energy conservation standard.

"(4) The Secretary's authority to amend energy conservation standards under this subsection shall not affect the Secretary's obligation to issue final rules as described in section 325." *Infra.*

SEC. 5. ENERGY CONSERVATION STANDARDS.

Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended to read as follows: 101 STAT. 108

"ENERGY CONSERVATION STANDARDS

"SEC. 325. (a) PURPOSES.—The purposes of this section are to—

"(1) provide Federal energy conservation standards applicable to covered products; and

"(2) authorize the Secretary to prescribe amended or new energy conservation standards for each type (or class) of covered product.

"(b) STANDARDS FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS.—(1) The following is the maximum energy use allowed in kilowatt hours per year for the following products (other than those described in paragraph (2)) manufactured on or after January 1, 1990:

	Energy Standards Equations
"Refrigerators and Refrigerator-Freezers with manual defrost	16.3 AV + 316
Refrigerator-Freezers—partial automatic defrost	21.8 AV + 429
Refrigerator-Freezers—automatic defrost with:	
Top mounted freezer without ice	23.5 AV + 471
Side mounted freezer without ice	27.7 AV + 488
Bottom mounted freezer without ice	27.7 AV + 488
Top mounted freezer with through the door ice service	26.4 AV + 535
Side mounted freezer with through the door ice	30.9 AV + 547
Upright Freezers with:	
Manual defrost	10.9 AV + 422
Automatic defrost	16.0 AV + 623
Chest Freezers and all other freezers	14.8 AV + 223

"(2) The standards described in paragraph (1) do not apply to refrigerators and refrigerator-freezers with total refrigerated volume exceeding 39 cubic feet or freezers with total refrigerated volume exceeding 30 cubic feet.

"(3)(A)(i) The Secretary shall publish a proposed rule, no later than July 1, 1988, to determine if the standards established by paragraph (1) should be amended. The Secretary shall publish a final rule no later than July 1, 1989, which shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1993. If such a final rule is not published before January 1, 1990, any amendment of such standards shall apply to products manufactured on or after January 1, 1995. Nothing in this subsection provides any justifica- Regulations.

tion or defense for a failure by the Secretary to comply with the nondiscretionary duty to publish final rules by the dates stated in this paragraph.

Effective date.

"(ii)(I) If the Secretary does not publish a final rule before January 1, 1990, relating to the revision of the energy conservation standards for refrigerators, refrigerator-freezers and freezers, the regulations which established standards for such products and were promulgated by the California Energy Commission on December 14, 1984, to be effective January 1, 1992 (or any amendments to such standards that are not more stringent than the standards in the original regulations), shall apply in California to such products, effective beginning January 1, 1993, and shall not be preempted after such effective date by any energy conservation standard established in this section or prescribed, on or after January 1, 1990, under this section.

State and local governments.

"(II) If the Secretary does not publish a final rule before January 1, 1992, relating to the revision of the energy conservation standards for refrigerators, refrigerator-freezers and freezers, State regulations which apply to such products manufactured on or after January 1, 1995, shall apply to such products until the effective date of a rule issued under this section with respect to such products.

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Regulations.

"(B) After the publication of a final rule under subparagraph (A), the Secretary shall publish a final rule no later than five years after the date of publication of the previous final rule. The Secretary shall determine in such rule whether to amend the standards in effect for the products described in paragraph (1).

"(C) Any amendment prescribed under subparagraph (B) shall apply to products manufactured after a date which is five years after—

"(i) the effective date of the previous amendment; or

"(ii) if the previous final rule did not amend the standards, the earliest date by which the previous amendment could have been effective;

except that in no case may any amended standard apply to products manufactured within three years after publication of the final rule establishing such amended standard.

"(c) STANDARDS FOR ROOM AIR CONDITIONERS.—(1) The energy efficiency ratio of room air conditioners shall be not less than the following for products manufactured on or after January 1, 1990:

"Product Class:	Ratio
Without Reverse Cycle and With Louvered Sides:	
Less than 6,000 Btu	8.0
6,000 to 7,999 Btu	8.5
8,000 to 13,999 Btu	9.0
14,000 to 19,999 Btu	8.8
20,000 and more Btu	8.2
Without Reverse Cycle and Without Louvered Sides:	
Less than 6,000 Btu	8.0
6,000 to 7,999 Btu	8.5
8,000 to 13,999 Btu	8.5
14,000 to 19,999 Btu	8.5
20,000 and more Btu	8.2
With Reverse Cycle and With Louvered Sides	8.5
With Reverse Cycle, Without Louvered Sides	8.0

Regulations.

"(2)(A) The Secretary shall publish a final rule no later than January 1, 1992, to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1995.

Regulations.

"(B) After January 1, 1992, the Secretary shall publish a final rule no later than five years after the date of publication of a previous final rule. The Secretary shall determine in such rule whether to amend the standards in effect for room air conditioners.

"(C) Any amendment prescribed under subparagraph (B) shall apply to products manufactured after a date which is five years after—

"(i) the effective date of the previous amendment; or

"(ii) if the previous final rule did not amend the standards,

the earliest date by which a previous amendment could have been effective;

except that in no case may any amended standard apply to products manufactured within three years after publication of the final rule establishing such amended standard.

"(d) STANDARDS FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS.—(1) The seasonal energy efficiency ratio of central air conditioners and central air conditioning heat pumps shall be not less than the following:

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"(A) Split Systems: 10.0 for products manufactured on or after January 1, 1992.

"(B) Single Package Systems: 9.7 for products manufactured on or after January 1, 1993.

"(2) The heating seasonal performance factor of central air conditioning heat pumps shall be not less than the following:

"(A) Split Systems: 6.8 for products manufactured on or after January 1, 1992.

"(B) Single Package Systems: 6.6 for products manufactured on or after January 1, 1993.

"(3)(A) The Secretary shall publish a final rule no later than January 1, 1994, to determine whether the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1999. The Secretary shall publish a final rule no later than January 1, 1994, to determine whether the standards established under paragraph (2) shall be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 2002. Regulations.

"(B) The Secretary shall publish a final rule after January 1, 1994, and no later than January 1, 2001, to determine whether the standards in effect for central air conditioners and central air conditioning heat pumps should be amended. Such rule shall provide that any amendment shall apply to products manufactured on or after January 1, 2006. Regulations.

"(e) STANDARDS FOR WATER HEATERS; POOL HEATERS; DIRECT HEATING EQUIPMENT.—(1) The energy factor of water heaters shall be not less than the following for products manufactured on or after January 1, 1990:

"(A) Gas Water Heater:	.62–(.0019 x Rated Storage Volume in gallons)
"(B) Oil Water Heater:	.59–(.0019 x Rated Storage Volume in gallons)
"(C) Electric Water Heater:	.95–(.00132 x Rated Storage in gallons)

"(2) The thermal efficiency of pool heaters manufactured on or after January 1, 1990, shall not be less than 78 percent.

"(3) The efficiencies of gas direct heating equipment manufactured on or after January 1, 1990, shall be not less than the following:

"Wall	
Fan type	
Up to 42,000 Btu/hour	73% AFUE
Over 42,000 Btu/hour	74% AFUE
Gravity type	
Up to 10,000 Btu/hour	59% AFUE
Over 10,000 Btu/hour up to 12,000 Btu/hour	60% AFUE
Over 12,000 Btu/hour up to 15,000 Btu/hour	61% AFUE
Over 15,000 Btu/hour up to 19,000 Btu/hour	62% AFUE
Over 19,000 Btu/hour up to 27,000 Btu/hour	63% AFUE
Over 27,000 Btu/hour up to 46,000 Btu/hour	64% AFUE
Over 46,000 Btu/hour	65% AFUE
"Floor	
Up to 37,000 Btu/hour	56% AFUE
Over 37,000 Btu/hour	57% AFUE

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"Room

Up to 18,000 Btu/hour	57% AFUE
Over 18,000 Btu/hour up to 20,000 Btu/hour	58% AFUE
Over 20,000 Btu/hour up to 27,000 Btu/hour	63% AFUE
Over 27,000 Btu/hour up to 46,000 Btu/hour	64% AFUE
Over 46,000 Btu/hour	65% AFUE

Regulations.

"(4)(A) The Secretary shall publish final rules no later than January 1, 1992, to determine whether the standards established by paragraphs (1), (2), or (3) for water heaters, pool heaters, and direct heating equipment should be amended. Such rule shall provide that any amendment shall apply to products manufactured on or after January 1, 1995.

Regulations.

"(B) The Secretary shall publish a final rule no later than January 1, 2000, to determine whether standards in effect for such products should be amended. Such rule shall provide that any such amendment shall apply to products manufactured on or after January 1, 2005.

Mobile homes.

"(f) STANDARDS FOR FURNACES.—(1) Furnaces (other than furnaces designed solely for installation in mobile homes) manufactured on or after January 1, 1992, shall have an annual fuel utilization efficiency of not less than 78 percent, except that—

"(A) boilers (other than gas steam boilers) shall have an annual fuel utilization efficiency of not less than 80 percent and gas steam boilers shall have an annual fuel utilization efficiency of not less than 75 percent; and

Regulations.

"(B) the Secretary shall prescribe a final rule not later than January 1, 1989, establishing an energy conservation standard—

"(i) which is for furnaces (other than furnaces designed solely for installation in mobile homes) having an input of less than 45,000 Btu per hour and manufactured on or after January 1, 1992;

"(ii) which provides that the annual fuel utilization efficiency of such furnaces shall be a specific percent which is not less than 71 percent and not more than 78 percent; and

"(iii) which the Secretary determines is not likely to result in a significant shift from gas heating to electric resistance heating with respect to either residential construction or furnace replacement.

"(2) Furnaces which are designed solely for installation in mobile homes and which are manufactured on or after September 1, 1990, shall have an annual fuel utilization efficiency of not less than 75 percent.

Regulations.

"(3)(A) The Secretary shall publish a final rule no later than January 1, 1992, to determine whether the standards established by paragraph (2) for mobile home furnaces should be amended. Such rule shall provide that any amendment shall apply to products manufactured on or after January 1, 1994.

"(B) The Secretary shall publish a final rule no later than January 1, 1994, to determine whether the standards established by this subsection for furnaces (including mobile home furnaces) should be amended. Such rule shall provide that any amendment shall apply to products manufactured on or after January 1, 2002.

"(C) After January 1, 1997, and before January 1, 2007, the Secretary shall publish a final rule to determine whether standards in effect for such products should be amended. Such rule shall contain such amendment, if any, and provide that any amendment

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shall apply to products manufactured on or after January 1, 2012.

"(g) STANDARDS FOR DISHWASHERS; CLOTHES WASHERS; CLOTHES DRYERS.—(1) Dishwashers manufactured on or after January 1, 1988, shall be equipped with an option to dry without heat.

"(2) All rinse cycles of clothes washers shall include an unheated water option, but may have a heated water rinse option, for products manufactured on or after January 1, 1988.

"(3) Gas clothes dryers shall not be equipped with a constant burning pilot for products manufactured on or after January 1, 1988.

"(4)(A) The Secretary shall publish final rules no later than January 1, 1990, to determine if the standards established under this subsection for products described in paragraphs (1), (2), and (3) should be amended. Such rules shall provide that any amendment shall apply to products the manufacture of which is completed on or after January 1, 1993. Regulations.

"(B) After January 1, 1990, the Secretary shall publish a final rule no later than five years after the date of publication of the previous final rule. The Secretary shall determine in such rule whether to amend the standards in effect for such products.

"(C) Any such amendment shall apply to products manufactured after a date which is five years after—

"(i) the effective date of the previous amendment; or

"(ii) if the previous final rule did not amend the standard, the earliest date by which a previous amendment could have been in effect;

except that in no case may any amended standard apply to products manufactured within three years after publication of the final rule establishing such standard.

"(h) STANDARDS FOR KITCHEN RANGES AND OVENS.—(1) Gas kitchen ranges and ovens having an electrical supply cord shall not be equipped with a constant burning pilot for products manufactured on or after January 1, 1990.

"(2)(A) The Secretary shall publish a final rule no later than January 1, 1992, to determine if the standards established for kitchen ranges and ovens in this subsection should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1995. Regulations.

"(B) The Secretary shall publish a final rule no later than January 1, 1997, to determine whether standards in effect for such products should be amended. Such rule shall apply to products manufactured on or after January 1, 2000.

"(i) STANDARDS FOR OTHER COVERED PRODUCTS.—(1) The Secretary may prescribe an energy conservation standard for any type (or class) of covered products of a type specified in paragraph (13) of section 322(a) if the requirements of subsections (l) and (m) are met and the Secretary determines that— *Ante*, p. 105.

"(A) the average per household energy use within the United States by products of such type (or class) exceeded 150 kilowatt-hours (or its Btu equivalent) for any 12-month period ending before such determination;

"(B) the aggregate household energy use within the United States by products of such type (or class) exceeded 4,200,000,000 kilowatt-hours (or its Btu equivalent) for any such 12-month period;

"(C) substantial improvement in the energy efficiency of products of such type (or class) is technologically feasible; and 101 STAT. 113

"(D) the application of a labeling rule under section 324 to such type (or class) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) which achieve the maximum energy efficiency which is technologically feasible and economically justified. 42 USC 6294.

"(2) Any new or amended standard for covered products of a type specified in paragraph (13) of section 322(a) shall not apply to products manufactured within five years after the publication of a final rule establishing such standard. *Ante*, p. 105.

"(3) The Secretary may, in accordance with subsections (l) and (m), prescribe an energy conservation standard for television sets. Any such standard may not become effective with respect to products manufactured before January 1, 1992.

"(j) FURTHER RULEMAKING.—After issuance of the last final rules required under subsections (b) through (h) of this section, the Secretary may publish final rules to determine whether standards for a covered product should be amended. An amendment prescribed under this subsection shall apply to products manufactured after a date which is 5 years after—

"(A) the effective date of the previous amendment made pursuant to this part; or

"(B) if the previous final rule published under this part did not amend the standard, the earliest date by which a previous amendment could have been in effect, except that in no case may an amended standard apply to products manufactured within 3 years (for refrigerators, refrigerator-freezers, and freezers, room air conditioners, dishwashers, clothes washers, clothes dryers, and kitchen ranges and ovens) or 5 years (for central air conditioners and heat pumps, water heaters, pool heaters, direct hearing equipment and furnaces) after publication of the final rule establishing a standard.

"(k) PETITION FOR AN AMENDED STANDARD.—(1) With respect to each covered product described in paragraphs (1) through (11) of section 322(a), any person may petition the Secretary to conduct a rulemaking to determine for a covered product if the standards contained either in the last final rule required under subsections (b) through (h) of this section or in a final rule published under this section should be amended.

"(2) The Secretary shall grant a petition if he finds that it contains evidence which, assuming no other evidence were considered, provides an adequate basis for amending the standards under the following criteria—

"(A) amended standards will result in significant conservation of energy;

"(B) amended standards are technologically feasible; and

"(C) amended standards are cost effective as described in subsection (l)(2)(B)(i)(II).

The grant of a petition by the Secretary under this subsection creates no presumption with respect to the Secretary's determination of any of the criteria in a rulemaking under this section.

"(3) An amendment prescribed under this subsection shall apply to products manufactured after a date which is 5 years after—

"(A) the effective date of the previous amendment pursuant to this part; or

"(B) if the previous final rule published under this part did not amend the standard, the earliest date by which a previous amendment could have been in effect, except that in no case may an amended standard apply to products manufactured within 3 years (for refrigerators, refrigerator-freezers, and freezers, room air conditioners, dishwashers, clothes washers, clothes dryers, and kitchen ranges and ovens) or 5 years (for central air conditioners and heat pumps, water heaters, pool heaters, direct heating equipment and furnaces) after publication of the final rule establishing a standard.

101 STAT. 114

"(l) CRITERIA FOR PRESCRIBING NEW OR AMENDED STANDARDS.—(1) The Secretary may not prescribe any amended standard which increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered product.

"(2)(A) Any new or amended energy conservation standard prescribed by the Secretary under this section for any type (or class) of covered product shall be designed to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

"(B)(i) In determining whether a standard is economically justified, the Secretary shall, after receiving views and comments furnished with respect to the proposed standard, determine whether the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering—

"(I) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard;

"(II) the savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard;

"(III) the total projected amount of energy savings likely to result directly from the imposition of the standard;

"(IV) any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

"(V) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

"(VI) the need for national energy conservation; and

"(VII) other factors the Secretary considers relevant.

"(ii) For purposes of clause (i)(V), the Attorney General shall make a determination of the impact, if any, of any lessening of competition likely to result from such standard and shall transmit such determination, not later than 60 days after the publication of a proposed rule prescribing or amending an energy conservation standard, in writing to the Secretary, together with an analysis of the nature and extent of such impact. Any such determination and analysis shall be published by the Secretary in the Federal Register. Federal Register, publication.

"(iii) If the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure, there shall be a rebuttable presumption that such standard level is economically justified. A determination by the Secretary that such criterion is not met shall not be taken into consideration in the Secretary's determination of whether a standard is economically justified. 101 STAT. 115

"(3) The Secretary may not prescribe an amended or new standard under this section for a type (or class) of covered product if—

"(A) for products other than dishwashers, clothes washers, clothes dryers, and kitchen ranges and ovens, a test procedure has not been prescribed pursuant to section 323 with respect to that type (or class) of product; or *Ante*, p. 105.

"(B) the Secretary determines, by rule, that the establishment of such standard will not result in significant conservation of energy or that the establishment of such standard is not technologically feasible or economically justified.

For purposes of section 327, a determination under subparagraph (B) with respect to any type (or class) of covered products shall have the same effect as would a standard prescribed for such type (or class). *Post*, p. 117.

"(4) The Secretary may not prescribe an amended or new standard under this section if the Secretary finds (and publishes such finding) that interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States at the time of the Secretary's finding. The failure of some types (or classes) to meet this criterion shall not affect the Secretary's determination of whether to prescribe a standard for other types (or classes).

"(m) PROCEDURE FOR PRESCRIBING NEW OR AMENDED STANDARDS.—Any new or amended energy conservation standard shall be prescribed in accordance with the following procedure:

"(1) The Secretary—

"(A) shall publish an advance notice of proposed rulemaking which specifies the type (or class) of covered products to which the rule may apply;

"(B) shall invite interested persons to submit, within 60 days after the date of publication of such advance notice, written presentations of data, views, and arguments in response to such notice; and

"(C) may identify proposed or amended standards that may be prescribed.

Federal Register, publication.

"(2) A proposed rule which prescribes an amended or new energy conservation standard or prescribes no amendment or no new standard for a type (or class) of covered products shall be published in the Federal Register. In prescribing any such proposed rule with respect to a standard, the Secretary shall determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for each type (or class) of covered products. If such standard is not designed to achieve such efficiency or use, the Secretary shall state in the proposed rule the reasons therefor.

Post, p. 123.

"(3) After the publication of such proposed rulemaking, the Secretary shall, in accordance with section 336, afford interested persons an opportunity, during a period of not less than 60 days, to present oral and written comments (including an opportunity to question those who make such presentations, as provided in such section) on matters relating to such proposed rule, including—

101 STAT. 116

"(A) whether the standard to be prescribed is economically justified (taking into account those factors which the Secretary must consider under subsection (l)(2)) or will result in the effects described in subsection (l)(4);

"(B) whether the standard will achieve the maximum improvement in energy efficiency which is technologically feasible;

"(C) if the standard will not achieve such improvement, whether the reasons for not achieving such improvement are adequate; and

"(D) whether such rule should prescribe a level of energy use or efficiency which is higher or lower than that which would otherwise apply in the case of any group of products within the type (or class) that will be subject to such standard.

Federal Register, publication.

"(4) A final rule prescribing an amended or new energy conservation standard or prescribing no amended or new standard for a type (or class) of covered products shall be published as soon as is practicable, but not less than 90 days, after publication of the proposed rule in the Federal Register.

"(n) SPECIAL RULE FOR CERTAIN TYPES OR CLASSES OF PRODUCTS.—(1) A rule prescribing an energy conservation standard for a type (or class) of covered products shall specify a level of energy use or efficiency higher or lower than that which applies (or would apply) for such type (or class) for any group of covered products which have the same function or intended use, if the Secretary determines that covered products within such group—

"(A) consume a different kind of energy from that consumed by other covered products within such type (or class); or

"(B) have a capacity or other performance-related feature which other products within such type (or class) do not have and such feature justifies a higher or lower standard from that which applies (or will apply) to other products within such type (or class).

In making a determination under this paragraph concerning whether a performance-related feature justifies the establishment of a higher or lower standard, the Secretary shall consider such factors as the utility to the consumer of such a feature, and such other factors as the Secretary deems appropriate.

"(2) Any rule prescribing a higher or lower level of energy use or efficiency under paragraph (1) shall include an explanation of the basis on which such higher or lower level was established.

"(o) INCLUSION IN STANDARDS OF TEST PROCEDURES AND OTHER REQUIREMENTS.—Any new or amended energy conservation standard prescribed under this section shall include, where applicable, test procedures prescribed in accordance with section 323 and may include any requirement which the Secretary determines is necessary to assure that each covered product to which such standard applies meets the required minimum level of energy efficiency or maximum quantity of energy use specified in such standard.

Ante, p. 105.

"(p) DETERMINATION OF COMPLIANCE WITH STANDARDS.—Compliance with, and performance under, the energy conservation standards (except for design standards authorized by this part) established in, or prescribed under, this section shall be determined using the test procedures and corresponding compliance criteria prescribed under section 323.

101 STAT. 117

"(q) SMALL MANUFACTURER EXEMPTION.—(1) Subject to paragraph (2), the Secretary may, on application of any manufacturer, exempt such manufacturer from all or part of the requirements of any energy conservation standard established in or prescribed under this section for any period not longer than the 24-month period beginning on the date such rule becomes effective, if the Secretary finds that the annual gross revenues of such manufacturer from all its operations (including the manufacture and sale of covered products) does not exceed $8,000,000 for the 12-month period preceding the date of the application. In making such finding with respect to any manufacturer, the Secretary shall take into account the annual gross revenues of any other person who controls, is controlled by, or is under common control with, such manufacturer.

"(2) The Secretary may not exercise the authority granted under paragraph (1) with respect to any type (or class) of covered product subject to an energy conservation standard under this section unless the Secretary makes a finding, after obtaining the written views of the Attorney General, that a failure to allow an exemption under paragraph (1) would likely result in a lessening of competition."

SEC. 6. REQUIREMENTS OF MANUFACTURERS.

Section 326(d) of the Energy Policy and Conservation Act (42 U.S.C. 6296(d)) is amended to read as follows:

"(d) INFORMATION REQUIREMENTS.—(1) For purposes of carrying out this part, the Secretary may require, under this part or other provision of law administered by the Secretary, each manufacturer of a covered product to submit information or reports to the Secretary with respect to energy efficiency or energy use of such covered product and the economic impact of any proposed energy conservation standard, as the Secretary determines may be necessary to establish and revise test procedures, labeling rules, and energy conservation standards for such product and to insure compliance with the requirements of this part. In making any determination under this paragraph, the Secretary shall consider existing public sources of information, including nationally recognized certification programs of trade associations.

Reports.
Labeling.

"(2) The Secretary shall exercise authority under this section in a manner designed to minimize unnecessary burdens on manufacturers of covered products.

"(3) The provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 shall apply with respect to information obtained under this subsection to the same extent and in the same manner as they apply with respect to energy information obtained under section 11 of such Act."

15 USC 796.

SEC. 7. EFFECT ON OTHER LAW.

Section 327 of the Energy Policy and Conservation Act (42 U.S.C. 6297) is amended to read as follows:

"EFFECT ON OTHER LAW

State and local governments.

"SEC. 327. (a) PREEMPTION OF TESTING AND LABELING REQUIREMENTS.—(1) Effective on the date of enactment of the National Appliance Energy Conservation Act of 1987, this part supersedes any State regulation insofar as such State regulation provides at any time for the disclosure of information with respect to any measure of energy consumption of any covered product if—

101 STAT. 118

"(A) such State regulation requires testing or the use of any measure of energy consumption or energy descriptor in any manner other than that provided under section 323; or

Ante, p. 105.

"(B) such State regulation requires disclosure of information with respect to the energy use or energy efficiency of any covered product other than information required under section 324.

42 USC 6294.

"(2) For purposes of this section, the term 'State regulation' means a law, regulation, or other requirement of a State or its political subdivisions.

"(b) GENERAL RULE OF PREEMPTION FOR ENERGY CONSERVATION STANDARDS BEFORE FEDERAL STANDARD BECOMES EFFECTIVE FOR A PRODUCT.—Effective on the date of enactment of the National Appliance Energy Conservation Act of 1987 and ending on the effective date of an energy conservation standard established under section 325 for any covered product, no State regulation, or revision thereof, concerning the energy efficiency or energy use of the covered product shall be effective with respect to such covered product, unless the State regulation or revision—

Ante, p. 107.

"(1) was prescribed or enacted before January 8, 1987, and is applicable to products before January 3, 1988;

"(2) is a State procurement regulation described in subsection (e);

"(3) is a regulation described in subsection (f)(1) or is prescribed or enacted in a building code for new construction described in subsection (f)(2);

"(4) is a regulation prohibiting the use in pool heaters of a constant burning pilot;

"(5) is a regulation described in subsection (d)(5)(B) for which a waiver has been granted under subsection (d); or

"(6) is a regulation effective on or after January 1, 1992, concerning the energy efficiency or energy use of television sets.

"(c) GENERAL RULE OF PREEMPTION FOR ENERGY CONSERVATION STANDARDS WHEN FEDERAL STANDARD BECOMES EFFECTIVE FOR A PRODUCT.—Except as provided in section 325(b)(3)(A)(ii) and effective on the effective date of an energy conservation standard established in or prescribed under section 325 for any covered product, no State regulation concerning the energy efficiency or energy use of such covered product shall be effective with respect to such product unless the regulation—

"(1) is a regulation described in paragraph (2) or (4) of subsection (b);

"(2) is a regulation which has been granted a waiver under subsection (d); or

"(3) is in a building code for new construction described in subsection (f)(3).

"(d) WAIVER OF FEDERAL PREEMPTION.—(1)(A) Any State with a State regulation which provides for any energy conservation standard or other requirement with respect to energy use or energy efficiency for any type (or class) of covered product for which there is a Federal energy conservation standard under section 325 may file a petition with the Secretary requesting a rule that such State regulation become effective with respect to such covered product.

"(B) Subject to paragraphs (2) through (5), the Secretary shall, within the period described in paragraph (2) and after consideration of the petition and the comments of interested persons, prescribe such rule if the Secretary finds (and publishes such finding) that the

State has established by a preponderance of the evidence that such State regulation is needed to meet unusual and compelling State or local energy interests. 101 STAT. 119

"(C) For purposes of this subsection, the term 'unusual and compelling State or local energy interests' means interests which—

"(i) are substantially different in nature or magnitude than those prevailing in the United States generally; and

"(ii) are such that the costs, benefits, burdens, and reliability of energy savings resulting from the State regulation make such regulation preferable or necessary when measured against the costs, benefits, burdens, and reliability of alternative approaches to energy savings or production, including reliance on reasonably predictable market-induced improvements in efficiency of all products subject to the State regulation.

The factors described in clause (ii) shall be evaluated within the context of the State's energy plan and forecast.

"(2) The Secretary shall give notice of any petition filed under paragraph (1)(A) and afford interested persons a reasonable opportunity to make written comments, including rebuttal comments, thereon. The Secretary shall, within the 6-month period beginning on the date on which any such petition is filed, deny such petition or prescribe the requested rule, except that the Secretary may publish a notice in the Federal Register extending such period to a date certain but no longer than one year after the date on which the petition was filed. Such notice shall include the reasons for delay. In the case of any denial of a petition under this subsection, the Secretary shall publish in the Federal Register notice of, and the reasons for, such denial. Federal Register, publication. Federal Register, publication.

"(3) The Secretary may not prescribe a rule under this subsection if the Secretary finds (and publishes such finding) that interested persons have established, by a preponderance of the evidence, that such State regulation will significantly burden manufacturing, marketing, distribution, sale, or servicing of the covered product on a national basis. In determining whether to make such finding, the Secretary shall evaluate all relevant factors, including—

"(A) the extent to which the State regulation will increase manufacturing or distribution costs of manufacturers, distributors, and others;

"(B) the extent to which the State regulation will disadvantage smaller manufacturers, distributors, or dealers or lessen competition in the sale of the covered product in the State;

"(C) the extent to which the State regulation would cause a burden to manufacturers to redesign and produce the covered product type (or class), taking into consideration the extent to which the regulation would result in a reduction—

"(i) in the current models, or in the projected availability of models, that could be shipped on the effective date of the regulation to the State and within the United States; or

"(ii) in the current or projected sales volume of the covered product type (or class) in the State and the United States; and

"(D) the extent to which the State regulation is likely to contribute significantly to a proliferation of State appliance efficiency requirements and the cumulative impact such requirements would have.

"(4) The Secretary may not prescribe a rule under this subsection if the Secretary finds (and publishes such finding) that interested persons have established, by a preponderance of the evidence, that the State regulation is likely to result in the unavailability in the State of any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the State at the time of the Secretary's finding, except that the failure of some classes (or types) to meet this criterion shall not affect the Secretary's determination of whether to prescribe a rule for other classes (or types). 101 STAT. 120

"(5) No final rule prescribed by the Secretary under this subsection may—

"(A) permit any State regulation to become effective with respect to any covered product manufactured within three years after such rule is published in the Federal Register or within five years if the Secretary finds that such additional time is necessary due to the substantial burdens of retooling, redesign, or distribution needed to comply with the State regulation; or

"(B) become effective with respect to a covered product manufactured before the earliest possible effective date specified in section 325 for the initial amendment of the energy conservation standard established in such section for the covered product; except that such rule may become effective before such date if the Secretary finds (and publishes such finding) that, in addition to the other requirements of this subsection the State has established, by a preponderance of the evidence, that—

Ante, p. 107.

"(i) an energy emergency condition exists within the State which—

"(I) imperils the health, safety, and welfare of its residents because of the inability of the State or utilities within the State to provide adequate quantities of gas or electric energy to its residents at less than prohibitive costs; and

"(II) cannot be substantially alleviated by the importation of energy or the use of interconnection agreements; and

"(ii) the State regulation is necessary to alleviate substantially such condition.

"(6) In any case in which a State is issued a rule under paragraph (1) with respect to a covered product and subsequently a Federal energy conservation standard concerning such product is amended pursuant to section 325, any person subject to such State regulation may file a petition with the Secretary requesting the Secretary to withdraw the rule issued under paragraph (1) with respect to such product in such State. The Secretary shall consider such petition in accordance with the requirements of paragraphs (1), (3), and (4), except that the burden shall be on the petitioner to show by a preponderance of the evidence that the rule received by the State under paragraph (1) should be withdrawn as a result of the amendment to the Federal standard. If the Secretary determines that the petitioner has shown that the rule issued by the State should be so withdrawn, the Secretary shall withdraw it.

"(e) EXCEPTION FOR CERTAIN STATE PROCUREMENT STANDARDS.—Any State regulation which sets forth procurement standards for a State (or political subdivision thereof) shall not be superseded by the provisions of this part if such standards are more stringent than the corresponding Federal energy conservation standards.

101 STAT. 121

"(f) EXCEPTION FOR CERTAIN BUILDING CODE REQUIREMENTS.—(1) A regulation or other requirement enacted or prescribed before January 8, 1987, that is contained in a State or local building code for new construction concerning the energy efficiency or energy use of a covered product is not superseded by this part until the effective date of the energy conservation standard established in or prescribed under section 325 for such covered product.

Ante, p. 107.

"(2) A regulation or other requirement, or revision thereof, enacted or prescribed on or after January 8, 1987, that is contained in a State or local building code for new construction concerning the energy efficiency or energy use of a covered product is not superseded by this part until the effective date of the energy conservation standard established in or prescribed under section 325 for such covered product if the code does not require that the energy efficiency of such covered product exceed—

"(A) the applicable minimum efficiency requirement in a national voluntary consensus standard; or

"(B) the minimum energy efficiency level in a regulation or

other requirement of the State meeting the requirements of subsection (b)(1) or (b)(5),

whichever is higher.

"(3) Effective on the effective date of an energy conservation standard for a covered product established in or prescribed under section 325, a regulation or other requirement contained in a State or local building code for new construction concerning the energy efficiency or energy use of such covered product is not superseded by this part if the code complies with all of the following requirements:

"(A) The code permits a builder to meet an energy consumption or conservation objective for a building by selecting items whose combined energy efficiencies meet the objective.

"(B) The code does not require that the covered product have an energy efficiency exceeding the applicable energy conservation standard established in or prescribed under section 325, except that the required efficiency may exceed such standard up to the level required by a regulation of that State for which the Secretary has issued a rule granting a waiver under subsection (d).

"(C) The credit to the energy consumption or conservation objective allowed by the code for installing covered products having energy efficiencies exceeding such energy conservation standard established in or prescribed under section 325 or the efficiency level required in a State regulation referred to in subparagraph (B) is on a one-for-one equivalent energy use or equivalent cost basis.

"(D) If the code uses one or more baseline building designs against which all submitted building designs are to be evaluated and such baseline building designs contain a covered product subject to an energy conservation standard established in or prescribed under section 325, the baseline building designs are based on the efficiency level for such covered product which meets but does not exceed such standard or the efficiency level required by a regulation of that State for which the Secretary has issued a rule granting a waiver under subsection (d).

"(E) If the code sets forth one or more optional combinations of items which meet the energy consumption or conservation objective, for every combination which includes a covered product the efficiency of which exceeds either standard or level 101 STAT. 122 referred to in subparagraph (D), there also shall be at least one combination which includes such covered product the efficiency of which does not exceed such standard or level by more than 5 percent, except that at least one combination shall include such covered product the efficiency of which meets but does not exceed such standard.

"(F) The energy consumption or conservation objective is specified in terms of an estimated total consumption of energy (which may be calculated from energy loss- or gain-based codes) utilizing an equivalent amount of energy (which may be specified in units of energy or its equivalent cost).

"(G) The estimated energy use of any covered product permitted or required in the code, or used in calculating the objective, is determined using the applicable test procedures prescribed under section 323, except that the State may permit *Ante*, p. 105 the estimated energy use calculation to be adjusted to reflect the conditions of the areas where the code is being applied if such adjustment is based on the use of the applicable test procedures prescribed under section 323 or other technically accurate documented procedure.

"(4)(A) Subject to subparagraph (B), a State or local government is not required to submit a petition to the Secretary in order to enforce or apply its building code or to establish that the code meets the conditions set forth in this subsection.

"(B) If a building code requires the installation of covered products with efficiencies exceeding both the applicable Federal standard established in or prescribed under section 325 and the applicable *Ante*, p. 107. standard of such State, if any, that has been granted a waiver under

subsection (d), such requirement of the building code shall not be applicable unless the Secretary has granted a waiver for such requirement under subsection (d).

"(g) NO WARRANTY.—Any disclosure with respect to energy use, energy efficiency, or estimated annual operating cost which is required to be made under the provisions of this part shall not create an express or implied warranty under State or Federal law that such energy efficiency will be achieved or that such energy use or estimated annual operating cost will not be exceeded under conditions of actual use.".

SEC. 8. CITIZEN SUITS.

Section 335(a) of the Energy Policy and Conservation Act (42 U.S.C. 6305) is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or";

(3) by inserting after paragraph (2) the following new paragraph:

"(3) the Secretary in any case in which there is an alleged failure of the Secretary to comply with a nondiscretionary duty to issue a proposed or final rule according to the schedules set forth in section 325."; and

(4) by adding after the last sentence the following:

"The courts shall advance on the docket, and expedite the disposition of, all causes filed therein pursuant to paragraph (3) of this subsection. If the court finds that the Secretary has failed to comply with a deadline established in section 325, the court shall have
101 STAT. 123 jurisdiction to order appropriate relief, including relief that will ensure the Secretary's compliance with future deadlines for the same covered product."

SEC. 9. ADMINISTRATIVE REVIEW AND JUDICIAL REVIEW.

Section 336 of the Energy Policy and Conservation Act (42 U.S.C. 6306) is amended to read as follows:

"ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

"SEC. 336. (a)(1) In addition to the requirements of section 553 of title 5, United States Code, rules prescribed under section 323, 324, 325, 327, or 328 of this part shall afford interested persons an opportunity to present written and oral data, views, and arguments with respect to any proposed rule.

Ante, p. 105; 42 USC 6294; *ante*, p. 107; *post*, p. 117; 42 USC 6298.

"(2) In the case of a rule prescribed under section 325, the Secretary shall, by means of conferences or other informal procedures, afford any interested person an opportunity to question—

"(A) other interested persons who have made oral presentations; and

"(B) employees of the United States who have made written or oral presentations with respect to disputed issues of material fact.

Such opportunity shall be afforded to the extent the Secretary determines that questioning pursuant to such procedures is likely to result in a more timely and effective resolution of such issues.

"(3) A transcript shall be kept of any oral presentations made under this subsection.

"(b)(1) Any person who will be adversely affected by a rule prescribed under section 323, 324, or 325 may, at any time within 60 days after the date on which such rule is prescribed, file a petition with the United States court of appeals for the circuit in which such person resides or has his principal place of business, for judicial review of such rule. A copy of the petition shall be transmitted by the clerk of the court to the agency which prescribed the rule. Such agency shall file in the court the written submissions to, and transcript of, the proceedings on which the rule was based, as provided in section 2112 of title 28, United States Code.

"(2) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. No rule under section 323, 324, or 325 may be affirmed unless supported by substantial evidence.

5 USC 701 *et seq.*

"(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(4) The remedies provided for in this subsection shall be in addition to, and not in substitution for, any other remedies provided by law.

"(5) The procedures applicable under this part shall not—

"(A) be considered to be modified or affected by any other provision of law unless such other provision specifically amends this part (or provisions of law cited herein); or

"(B) be considered to be superseded by any other provision of law unless such other provision does so in specific terms by referring to this part and declaring that such provision supersedes, in whole or in part, the procedures of this part.

101 STAT. 124

"(c) Jurisdiction is vested in the Federal district courts of the United States over actions brought by—

"(1) any adversely affected person to determine whether a State or local government is complying with the requirements of this part; and

State and local governments.

"(2) any person who files a petition under section 325(k) which is denied by the Secretary.".

Ante, p. 107.

SEC. 10. ANNUAL REPORT.

Section 338 of the Energy Policy and Conservation Act (42 U.S.C. 6308) is amended by adding at the end the following: "Nothing in this section provides a defense or justification for a failure by the Secretary to comply with a nondiscretionary duty as provided for in this part."

SEC. 11. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Part B of title III of the Energy Policy and Conservation Act is amended as follows:

42 USC 6321 *et seq.*

(1) Section 324 is amended—

42 USC 6294.

(A) in subsection (a)(1), by striking out "paragraphs (1) through (9)" and inserting in lieu thereof "paragraphs (1), (2), (4), (6), and (8) through (12)";

(B) in subsection (a)(2), by striking out "paragraphs (10) through (13)" and inserting in lieu thereof "paragraphs (3), (5), and (7)"; and

(C) in subsection (a)(3)—

(i) by striking out "paragraph (14)" and inserting in lieu thereof "paragraph (13)";

(ii) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) the Commission or the Secretary has made a determination with respect to such type (or class thereof) that labeling in accordance with this section will assist purchasers in making purchasing decisions,"; and

(iii) by striking out "section 323(a)(5)" in subparagraph (B) and inserting in lieu thereof "section 323(b)(1)(B)";

Ante, p. 105.

(D) by striking out subsection (b)(1) and inserting in lieu thereof the following:

"(b) RULES IN EFFECT; NEW RULES.—(1)(A) Any labeling rule in effect on the date of the enactment of the National Appliance Energy Conservation Act of 1987 shall remain in effect until amended, by rule, by the Commission.

Labeling.

"(B) After the date of the enactment of the National Appliance Energy Conservation Act of 1987 and not later than 30 days after the date on which a proposed test procedure applicable to a covered

Ante, p. 105.

product of any of the types specified in paragraphs (1) through (13) of section 322(a) (or class thereof) is prescribed under section 323(b), the Commission shall publish a proposed labeling rule applicable to such type (or class thereof).";

(E) in subsection (b)(3)—

(i) by striking out "section 323" both places in which it appears and inserting in lieu thereof "section 323(b)";

(ii) by striking out "(13)" and inserting in lieu thereof "(12)"; and

(iii) by striking out "(14)" and inserting in lieu thereof "(13)";

101 STAT. 125

(F) in subsection (b)(5)—

(i) by striking out "(10) through (13)" and inserting in lieu thereof "(3), (5), and (7)"; and

(ii) by striking out "(14)" and inserting in lieu thereof "(13)"; and

(G) in subsection (f), by striking out "or (2)" in the second sentence.

42 USC 6296.

(2) Section 326(b)(3)(A) is amended by inserting "established in or" before "prescribed under".

42 USC 6302.

(3) Section 332(a)(5) is amended by striking out "energy efficiency standard prescribed under" and inserting in lieu thereof "energy conservation standard established in or prescribed under".

(b) STYLISTIC CONFORMING AMENDMENTS.—Part B of title III of the Energy Policy and Conservation Act is amended as follows:

42 USC 6321 *et seq.*

42 USC 6292.

(1) Section 322(b)(1) is amended by striking out "(b)(1)" and inserting in lieu thereof "(b) SPECIAL CLASSIFICATION OF CONSUMER PRODUCT.—(1)".

42 USC 6294.

(2) Section 324 is amended—

(A) by striking out "SEC. 324. (a)(1)" and inserting in lieu thereof "SEC. 324. (a) IN GENERAL.—(1)";

(B) in subsection (c)(1), by striking out "(c)(1)" and inserting in lieu thereof "(c) CONTENT OF LABEL.—(1)";

(C) in subsection (d), by striking out "(d)" and inserting in lieu thereof "(d) EFFECTIVE DATE.—";

(D) in subsection (e), by striking out "(e)" and inserting in lieu thereof "(e) STUDY OF CERTAIN PRODUCTS.—";

(E) in subsection (f), by striking out "(f)" and inserting in lieu thereof "(f) CONSULTATION.—"; and

(F) in subsection (g), by striking out "(g)" and inserting in lieu thereof "(g) OTHER AUTHORITY OF THE COMMISSION.—".

42 USC 6296.

(3) Section 326 is amended—

(A) in subsection (a), by striking out "(a)" and inserting in lieu thereof "(a) IN GENERAL.—";

(B) in subsection (b)(1), by striking out "(b)(1)" and inserting in lieu thereof "(b) NOTIFICATION.—(1)"; and

(C) in subsection (c), by striking out "(c) Each" and inserting in lieu thereof "(c) DEADLINE.—Each".

42 USC 6299.

(4) Section 329 is amended—

(A) in subsection (a), by striking out "(a)" and inserting in lieu thereof "(a) IN GENERAL.—"; and

(B) in subsection (b), by striking out "(b)" and inserting in lieu thereof "(b) CONFIDENTIALITY.—".

42 USC 6302.

(5) Section 332 is amended—

(A) in subsection (a), by striking out "SEC. 332. (a)" and inserting in lieu thereof "SEC. 332. (a) IN GENERAL.—"; and

(B) in subsection (b), by striking out "(b)" and inserting in lieu thereof "(b) DEFINITION.—".

42 USC 6303.

(6) Section 333 is amended—

(A) in subsection (a), by striking out "SEC. 333. (a)" and inserting in lieu thereof "SEC. 333. (a) IN GENERAL.—";

(B) in subsection (b), by striking out "(b)" and inserting in lieu thereof "(b) DEFINITION.—";

(C) in subsection (c), by striking out "(c) It" and inserting in lieu thereof "(c) SPECIAL RULE.—It"; and

(D) in subsection (d)(1), by striking out "(d)(1)" and inserting in lieu thereof "(d) PROCEDURE FOR ASSESSING PENALTY.—(1)". 101 STAT. 126

(7) Section 335 is amended— 42 USC 6305.

(A) in subsection (b), by striking out "(b)" and inserting in lieu thereof "(b) LIMITATION.—";

(B) in subsection (c), by striking out "(c)" and inserting in lieu thereof "(c) RIGHT TO INTERVENE.—";

(C) in subsection (d), by striking out "(d)" and inserting in lieu thereof "(d) AWARD OF COSTS OF LITIGATION.—";

(D) in subsection (e), by striking out "(e)" and inserting in lieu thereof "(e) PRESERVATION OF OTHER RELIEF.—"; and

(E) in subsection (f), by striking out "(f)" and inserting in lieu thereof "(f) COMPLIANCE IN GOOD FAITH.—".

(8) Section 339 is amended— 42 USC 6309.

(A) in subsection (a), by striking out "(a)" and inserting in lieu thereof "(a) AUTHORIZATIONS FOR THE SECRETARY.—";

(B) in subsection (b), by striking out "(b)" and inserting in lieu thereof "(b) AUTHORIZATIONS FOR THE COMMISSION.—"; and

(C) in subsection (c), by striking out "(c)" and inserting in lieu thereof "(c) OTHER AUTHORIZATIONS.—".

Approved March 17, 1987.

LEGISLATIVE HISTORY—S. 83 (H.R. 87):

HOUSE REPORTS: No. 100-11 accompanying H.R. 87 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-6 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Feb. 5, 17, considered and passed Senate.
Mar. 3, H.R. 87, considered and passed House; proceedings vacated and S. 83 passed in lieu.

Public Law 100-72
100th Congress

101 STAT. 477

An Act

To amend the Small Business Act and the Small Business Investment Act of 1958.

July 11, 1987
[H.R. 2166]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 20 of the Small Business Act is hereby amended as follows: 15 USC 631 note.

(a) by striking from paragraph (4) of subsection (y) "$1,142,000,000" and by inserting in lieu thereof "$1,250,000,000";

(b) by striking from subsection (z) "$409,000,000" and inserting in lieu thereof "$393,000,000"; and

(c) by inserting after "1958;" in subsection (z) the following: "$16,000,000 shall be available to carry out the provisions of sections 404 and 405 of the Small Business Investment Act of 1958;".

SEC. 2. Section 504 of the Small Business Investment Act of 1958 is amended as follows: 15 USC 694-1, 694-2. 15 USC 697a.

(a) by striking "and" at the end of subsection (a)(1);

(b) by striking "$295,000,000." and by inserting in lieu thereof "$425,000,000; and"; and

(c) by adding the following new paragraph at the end of subsection (a):

"(3) of the program levels otherwise authorized by law for fiscal year 1988, an amount not to exceed $425,000,000.".

Approved July 11, 1987.

LEGISLATIVE HISTORY—H.R. 2166:

HOUSE REPORTS: No. 100-94 (Comm. on Small Business).
CONGRESSIONAL RECORD, Vol. 133 (1987):
May 27, considered and passed House.
June 25, considered and passed Senate.

Public Law 100-86
100th Congress

An Act

Aug. 10, 1987
[H.R. 27]

To regulate nonbank banks, impose a moratorium on certain securities and insurance activities by banks, recapitalize the Federal Savings and Loan Insurance Corporation, allow emergency interstate bank acquisitions, streamline credit union operations, regulate consumer checkholds, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Competitive Equality Banking Act of 1987.
12 USC 226 note

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Competitive Equality Banking Act of 1987".

(b) TABLE OF CONTENTS.—

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101 STAT. 553
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Competitive Equality Amendments of 1987.

TITLE I—FINANCIAL INSTITUTIONS COMPETITIVE EQUALITY

12 USC 226 note.

SEC. 100. SHORT TITLE.

This title may be cited as the "Competitive Equality Amendments of 1987".

SEC. 101. AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.

(a) DEFINITIONS.—

(1) AMENDMENT TO DEFINITION OF BANK.—Section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)) is amended to read as follows:

"(c) BANK DEFINED.—For purposes of this Act—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'bank' means any of the following:

"(A) An insured bank as defined in section 3(h) of the Federal Deposit Insurance Act.

12 USC 1813.

"(B) An institution organized under the laws of the United States, any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands which both—

"(i) accepts demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others; and

"(ii) is engaged in the business of making commercial loans.

"(2) EXCEPTIONS.—The term 'bank' does not include any of the following:

"(A) A foreign bank which would be a bank within the meaning of paragraph (1) solely because such bank has an insured or uninsured branch in the United States.

"(B) An insured institution (as defined in subsection (j)).

"(C) An organization that does not do business in the United States except as an incident to its activities outside the United States.

"(D) An institution that functions solely in a trust or fiduciary capacity, if—

"(i) all or substantially all of the deposits of such institution are in trust funds and are received in a bona fide fiduciary capacity;

"(ii) no deposits of such institution which are insured by the Federal Deposit Insurance Corporation are offered or marketed by or through an affiliate of such institution;

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"(iii) such institution does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others or make commercial loans; and

"(iv) such institution does not—

"(I) obtain payment or payment related services from any Federal Reserve bank, including any service referred to in section 11A of the Federal Reserve Act; or

12 USC 248a.

"(II) exercise discount or borrowing privileges pursuant to section 19(b)(7) of the Federal Reserve Act. 12 USC 461.

"(E) A credit union (as described in section 19(b)(1)(A)(iv) of the Federal Reserve Act).

"(F) An institution which—

"(i) engages only in credit card operations;

"(ii) does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others;

"(iii) does not accept any savings or time deposit of less than $100,000;

"(iv) maintains only one office that accepts deposits; and

"(v) does not engage in the business of making commercial loans.

"(G) An organization operating under section 25 or section 25(a) of the Federal Reserve Act. 12 USC 601-604a, 611-631.

"(H) An industrial loan company, industrial bank, or other similar institution which is—

"(i) an institution organized under the laws of a State which, on March 5, 1987, had in effect or had under consideration in such State's legislature a statute which required or would require such institution to obtain insurance under the Federal Deposit Insurance Act— 12 USC 1811 note.

"(I) which does not accept demand deposits that the depositor may withdraw by check or similar means for payment to third parties;

"(II) which has total assets of less than $100,000,000; or

"(III) the control of which is not acquired by any company after the date of the enactment of the Competitive Equality Amendments of 1987; or

"(ii) an institution which does not, directly, indirectly, or through an affiliate, engage in any activity in which it was not lawfully engaged as of March 5, 1987,

except that this subparagraph shall cease to apply to any institution which permits any overdraft (including any intraday overdraft), or which incurs any such overdraft in such institution's account at a Federal Reserve bank, on behalf of an affiliate if such overdraft is not the result of an inadvertent computer or accounting error that is beyond the control of both the institution and the affiliate.

"(I) The Investors Fiduciary Trust Company, located in Kansas City, Missouri, so long as such institution— 101 STAT. 556

"(i) engages only in trust, fiduciary, and agency activities in which it was lawfully engaged on March 5, 1987;

"(ii) engages in such activities only at the same number of locations at which such activities were conducted on such date;

"(iii) does not accept demand deposits other than demand deposits which are maintained by such institution in—

"(I) a trust or fiduciary capacity;

"(II) the institution's capacity as a custodian or as a paying, transfer, shareholder servicing, securities clearing, escrow, or dividend disbursing agent; or

"(III) any capacity which is incidental to the trust or fiduciary activities of the institution;

"(iv) does not engage in the business of making commercial loans;

"(v) does not exercise discount or borrowing privileges pursuant to section 19(b)(7) of the Federal Reserve Act; and

12 USC 461.

"(vi) is not directly or indirectly controlled by any company other than a company which directly or indirectly controlled such institution on March 5, 1987.

"(J) A savings bank (as defined in section 3(g) of the Federal Deposit Insurance Act) which—

Post, p. 563.

"(i) is an insured bank (as defined in section 3(h) of such Act);

"(ii) is a subsidiary of the Great Western Financial Corporation as a result of an approval in writing by the State bank supervisor of the State of New York before June 30, 1987;

"(iii) meets or exceeds the investment requirements which an insured institution must meet in order to be a qualified thrift lender under section 408(o) of the National Housing Act; and

Post, p. 571.

"(iv) does not, directly, or through insurance products such savings bank receives from or provides to the Great Western Financial Corporation, engage in the sale or underwriting of insurance,

except that this subparagraph shall cease to apply with respect to such savings bank or any successor institution if any deposits of any other subsidiary or affiliate of the Great Western Financial Corporation which are subject to an assessment of an insurance premium under subsection (b) or (c) of section 404 of the National Housing Act are, directly or indirectly by any device whatsoever, transferred to or acquired by such savings bank or any successor institution which would have the effect of materially reducing such premium assessments. The exemption provided by this subparagraph shall cease to apply if Great Western Financial Corporation uses such savings bank or any successor institution as a vehicle to move such Corporation from Federal Savings and Loan Insurance Corporation insurance to Federal Deposit Insurance Corporation insurance.

Post, p. 601.

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"(3) DISTRICT BANK.—The term 'District bank' means any bank operating under the Code of Law for the District of Columbia.".

(2) AMENDMENT TO DEFINITION OF THRIFT INSTITUTION.—Section 2(i) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(i)) is amended to read as follows:

"(i) THRIFT INSTITUTION.—For purposes of this Act, the term 'thrift institution' means—

"(1) any domestic building and loan or savings and loan association;

"(2) any cooperative bank without capital stock organized and operated for mutual purposes and without profit;

"(3) any Federal savings bank; and

"(4) any State-chartered savings bank the holding company of which is registered pursuant to section 408 of the National Housing Act.".

Post, p. 571.

(3) ADDITIONAL DEFINITIONS.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end thereof the following new subsections:

"(j) INSURED INSTITUTION.—For purposes of this Act, the term 'insured institution' has the meaning given to such term in section 408(a)(1) of the National Housing Act.

"(k) AFFILIATE.—For purposes of this Act, the term 'affiliate' means any company that controls, is controlled by, or is under common control with another company.

"(l) SAVINGS BANK HOLDING COMPANY.—For purposes of this Act, the term 'savings bank holding company' means any company

which controls one or more qualified savings banks if the aggregate total assets of such savings banks constitute, upon formation of the holding company and at all times thereafter, at least 70 percent of the total assets of such company.

"(m) QUALIFIED SAVINGS BANK.—For purposes of this Act, the term 'qualified savings bank'—

"(1) means any savings bank (as defined in section 3(g) of the Federal Deposit Insurance Act) which was organized on or before March 5, 1987; and

Post, p. 563.

"(2) includes any cooperative bank that is an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act) and any interim savings bank that is established to facilitate a corporate reorganization, or the formation of a holding company, involving a savings bank described in paragraph (1).".

(b) IMMEDIATE DIVESTITURE REQUIREMENT.—Section 4(a)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(a)(2)) is amended by adding at the end thereof the following sentence: "Notwithstanding any other provision of this paragraph, if any company that became a bank holding company as a result of the enactment of the Competitive Equality Amendments of 1987 acquired, between March 5, 1987, and the date of the enactment of such Amendments, an institution that became a bank as a result of the enactment of such Amendments, that company shall, upon the enactment of such Amendments, immediately come into compliance with the requirements of this Act.".

(c) CERTAIN COMPANIES NOT TREATED AS BANK HOLDING COMPANIES; LIMITATIONS ON CERTAIN BANKS.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end thereof the following new subsections:

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"(f) CERTAIN COMPANIES NOT TREATED AS BANK HOLDING COMPANIES.—

"(1) IN GENERAL.—Except as provided in paragraph (9), any company which—

"(A) on March 5, 1987, controlled an institution which became a bank as a result of the enactment of the Competitive Equality Amendments of 1987; and

"(B) was not a bank holding company on the day before the date of the enactment of the Competitive Equality Amendments of 1987,

shall not be treated as a bank holding company for purposes of this Act solely by virtue of such company's control of such institution.

"(2) LOSS OF EXEMPTION.—Paragraph (1) shall cease to apply to any company described in such paragraph if—

"(A) such company directly or indirectly—

"(i) acquires control of an additional bank or an insured institution (other than an insured institution described in paragraph (10) of this subsection) after March 5, 1987; or

"(ii) acquires control of more than 5 percent of the shares or assets of an additional bank or an insured institution other than—

"(I) shares acquired in a bona fide fiduciary capacity;

"(II) shares held temporarily pursuant to an underwriting commitment in the normal course of an underwriting business;

"(III) shares held in an account solely for trading purposes;

"(IV) loans or other accounts receivable acquired in the normal course of business; and

"(V) shares or assets of an insured institution described in paragraph (10) of this subsection; or

"(B) any bank subsidiary of such company fails to comply with the restrictions contained in paragraph (3)(B).

"(3) LIMITATION ON BANKS CONTROLLED BY PARAGRAPH (1) COMPANIES.—

"(A) FINDINGS.—The Congress finds that banks controlled by companies referred to in paragraph (1) may, because of relationships with affiliates, be involved in conflicts of interest, concentration of resources, or other effects adverse to bank safety and soundness, and may also be able to compete unfairly against banks controlled by bank holding companies by combining banking services with financial services not permissible for bank holding companies. The purpose of this paragraph is to minimize any such potential adverse effects or inequities by temporarily restricting the activities of banks controlled by companies referred to in paragraph (1) until such time as the Congress has enacted proposals to allow, with appropriate safeguards, all banks or bank holding companies to compete on a more equal basis with banks controlled by companies referred to in paragraph (1) or, alternatively, proposals to permanently restrict the activities of banks controlled by companies referred to in paragraph (1).

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"(B) LIMITATIONS.—Until such time as the Congress has taken action pursuant to subparagraph (A), a bank controlled by a company described in paragraph (1) shall not—

"(i) engage in any activity in which such bank was not lawfully engaged as of March 5, 1987;

"(ii) offer or market products or services of an affiliate that are not permissible for bank holding companies to provide under subsection (c)(8), or permit its products or services to be offered or marketed by or through an affiliate (other than an affiliate that engages only in activities permissible for bank holding companies under subsection (c)(8)), unless such products or services were being so offered or marketed as of March 5, 1987, and then only in the same manner in which they were being offered or marketed as of that date;

"(iii) after the date of the enactment of the Competitive Equality Amendments of 1987, permit any overdraft (including an intraday overdraft), or incur any such overdraft in such bank's account at a Federal Reserve bank, on behalf of an affiliate, other than an overdraft described in subparagraph (C); or

"(iv) increase its assets at an annual rate of more than 7 percent during any 12-month period beginning after the end of the 1-year period beginning on the date of the enactment of the Competitive Equality Amendments of 1987.

"(C) PERMISSIBLE OVERDRAFTS DESCRIBED.—For purposes of subparagraph (B)(iii), an overdraft is described in this subparagraph if—

"(i) such overdraft results from an inadvertent computer or accounting error that is beyond the control of both the bank and the affiliate; or

"(ii) such overdraft—

"(I) is permitted or incurred on behalf of an affiliate which is monitored by, reports to, and is recognized as a primary dealer by the Federal Reserve Bank of New York; and

"(II) is fully secured, as required by the Board, by bonds, notes, or other obligations which are direct obligations of the United States or on which the principal and interest are fully guaranteed by the United States or by securities and obligations eligible for settlement on the Federal Reserve book entry system.

"(4) DIVESTITURE IN CASE OF LOSS OF EXEMPTION.—If any com-

pany described in paragraph (1) loses the exemption provided under such paragraph by operation of paragraph (2), such company shall divest control of each bank it controls within 180 days after such company becomes a bank holding company due to the loss of such exemption.

"(5) SUBSECTION CEASES TO APPLY UNDER CERTAIN CIRCUMSTANCES.—This subsection shall cease to apply to any company described in paragraph (1) if such company—

"(A) registers as a bank holding company under section 5(a) of this Act; 12 USC 1844.

"(B) immediately upon such registration, complies with all of the requirements of this Act, and regulations prescribed by the Board pursuant to this Act, including the nonbanking restrictions of this section; and 101 STAT. 560

"(C) does not, at the time of such registration, control banks in more than one State, the acquisition of which would be prohibited by section 3(d) of this Act if an application for such acquisition by such company were filed under section 3(a) of this Act. 12 USC 1842.

"(6) INFORMATION REQUIREMENT.—Each company described in paragraph (1) shall, within 60 days after the date of enactment of the Competitive Equality Amendments of 1987, provide the Board with the name and address of such company, the name and address of each bank such company controls, and a description of each such bank's activities.

"(7) EXAMINATION.—The Board may, from time to time, examine a company described in paragraph (1), or a bank controlled by such company, or require reports under oath from appropriate officers or directors of such company or bank solely for purposes of assuring compliance with the provisions of this subsection and enforcing such compliance. Reports.

"(8) ENFORCEMENT.—

"(A) IN GENERAL.—In addition to any other power of the Board, the Board may enforce compliance with the provisions of this Act which are applicable to any company described in paragraph (1), and any bank controlled by such company, under section 8 of the Federal Deposit Insurance Act and such company or bank shall be subject to such section (for such purposes) in the same manner and to the same extent as if such company or bank were a State member insured bank. 12 USC 1818.

"(B) APPLICATION OF OTHER ACT.—Any violation of this Act by any company described in paragraph (1), and any bank controlled by such company, may also be treated as a violation of the Federal Deposit Insurance Act for purposes of subparagraph (A). 12 USC 1811 note.

"(C) NO EFFECT ON OTHER AUTHORITY.—No provision of this paragraph shall be construed as limiting any authority of the Comptroller of the Currency or the Federal Deposit Insurance Corporation.

"(9) TYING PROVISIONS.—A company described in paragraph (1) shall be—

"(A) treated as a bank holding company for purposes of section 106 of the Bank Holding Company Act Amendments of 1970 and section 22(h) of the Federal Reserve Act and any regulation prescribed under any such section; and 12 USC 1971–1978, 375b.

"(B) subject to the restrictions of section 106 of the Bank Holding Company Act Amendments of 1970, in connection with any transaction involving the products or services of such company or affiliate and those of a bank affiliate, as if such company or affiliate were a bank and such bank were a subsidiary of a bank holding company.

"(10) EXEMPTION UNAFFECTED BY CERTAIN EMERGENCY ACQUISITIONS.—For purposes of clauses (i) and (ii)(V) of paragraph (2)(A), an insured institution is described in this paragraph if—

"(A) the insured institution was acquired (or any shares or assets of such institution were acquired) by a company

101 STAT. 561

described in paragraph (1) in an acquisition under section 408(m) of the National Housing Act; and

"(B) either—

"(i) the insured institution is located in a State in which such company controlled a bank on March 5, 1987; or

"(ii) the insured institution has total assets of $500,000,000 or more at the time of such acquisition.

"(g) LIMITATIONS ON CERTAIN BANKS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section (other than the last sentence of subsection (a)(2)), a bank holding company which controls an institution that became a bank as a result of the enactment of the Competitive Equality Amendments of 1987 may retain control of such institution if such institution does not—

"(A) engage in any activity after the date of the enactment of such Amendments which would have caused such institution to be a bank (as defined in section 2(c), as in effect before such date) if such activities had been engaged in before such date; or

"(B) increase the number of locations from which such institution conducts business after March 5, 1987.

"(2) LIMITATIONS CEASE TO APPLY UNDER CERTAIN CIRCUMSTANCES.—The limitations contained in paragraph (1) shall cease to apply to a bank described in such paragraph at such time as the acquisition of such bank, by the bank holding company referred to in such paragraph, would not be prohibited under section 3(d) of this Act if—

"(A) an application for such acquisition were filed under section 3(a) of this Act; and

"(B) such bank were treated as an additional bank (under section 3(d)).

"(h) TYING PROVISIONS.—

"(1) APPLICABLE TO CERTAIN EXEMPT INSTITUTIONS AND PARENT COMPANIES.—An institution described in subparagraph (D), (F), (G), (H), (I), or (J) of section 2(c)(2) shall be treated as a bank, and a company that controls such an institution shall be treated as a bank holding company, for purposes of section 106 of the Bank Holding Company Act Amendments of 1970 and section 22(h) of the Federal Reserve Act and any regulation prescribed under any such section.

"(2) APPLICABLE WITH RESPECT TO CERTAIN TRANSACTIONS.—A company that controls an institution described in subparagraph (D), (F), (G), (H), (I), or (J) of section 2(c)(2) and any of such company's other affiliates, shall be subject to the tying restrictions of section 106 of the Bank Holding Company Act Amendments of 1970 in connection with any transaction involving the products or services of such company or affiliate and those of such institution, as if such company or affiliate were a bank and such institution were a subsidiary of a bank holding company.".

(d) SAVINGS BANK ACTIVITIES.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end thereof the following new subsection:

"(f) SAVINGS BANK SUBSIDIARIES OF BANK HOLDING COMPANIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act (other than paragraphs (2) and (3)), any qualified savings bank which is a subsidiary of a bank holding company may engage, directly or through a subsidiary, in any activity in which such savings bank may engage (as a State chartered savings bank) pursuant to express, incidental, or implied powers under any statute or regulation, or under any judicial interpretation of any law, of the State in which such savings bank is located.

"(2) INSURANCE ACTIVITIES.—Except as provided in paragraph (3), any insurance activities of any qualified savings bank which

Post, p. 621.

Ante, p. 554.

12 USC 1842.

12 USC 1971-1978
12 USC 375b.

Post, p. 579.

101 STAT. 562

is a subsidiary of a bank holding company shall be limited to insurance activities allowed under section 4(c)(8). 12 USC 1843.

"(3) SAVINGS BANK LIFE INSURANCE.—Any qualified savings bank permitted, as of March 5, 1987, to engage in the sale or underwriting of savings bank life insurance may sell or underwrite such insurance after such savings bank is a subsidiary of a bank holding company if— State and local governments.

"(A) the savings bank is located in the State of Connecticut, Massachusetts, or New York; Connecticut. Massachusetts. New York.

"(B) such activity is expressly authorized by the law of the State in which such savings bank is located;

"(C) the savings bank retains its character as a savings bank;

"(D) such activity is carried out by the savings bank directly and not by—

"(i) any subsidiary or affiliate of the savings bank; or

"(ii) the bank holding company which controls such savings bank;

"(E) such activity is carried out by the savings bank in accordance with any residency or employment limitations set forth in the savings bank life insurance statute in effect on March 5, 1987, in the State in which such bank is located; and

"(F) such activity is otherwise carried out in the same manner as savings bank life insurance activity is carried out in the State in which such bank is located by savings banks which are not subsidiaries of any bank holding company registered under this Act.

"(4) SUBSECTION SHALL CEASE TO APPLY UNDER CERTAIN CIRCUMSTANCES.—If any company which is not a savings bank or a savings bank holding company acquires control of a qualified savings bank, such savings bank shall cease to engage in any activity authorized under paragraph (1) or (3) before the end of the 2-year period beginning on the date such company acquires control, unless such activity is otherwise authorized pursuant to this Act.

"(5) SPECIAL ASSET AGGREGATION RULE FOR PURPOSES OF PARAGRAPH (3).—For the sole purpose of determining whether a qualified savings bank may continue to sell and underwrite savings bank life insurance in accordance with this subsection after control of such savings bank is acquired by a bank holding company, the assets of any other bank affiliated with, or under contract to affiliate with, such savings bank as of March 5, 1987, shall be treated as assets of the savings bank in determining whether such bank holding company is a savings bank holding company.".

(e) THRIFT INSTITUTIONS' BANK.—Section 2(a)(5)(E) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(5)(E)) is amended to read as follows: 101 STAT. 563

"(E) No company is a bank holding company by virtue of its ownership or control of any State-chartered bank or trust company which—

"(i) is wholly owned by thrift institutions or savings banks; and

"(ii) is restricted to accepting—

"(I) deposits from thrift institutions or savings banks;

"(II) deposits arising out of the corporate business of the thrift institutions or savings banks that own the bank or trust company; or

"(III) deposits of public moneys.".

(f) EFFECT ON STATE AUTHORITY TO REGULATE.—Section 7 of the Bank Holding Company Act of 1956 (12 U.S.C. 1846) is amended—

(1) by striking out "The enactment by the Congress of the Bank Holding Company Act of 1956 shall not" and inserting in lieu thereof "No provision of this Act shall"; and

(2) by inserting "companies," before "banks".

(g) AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—

(1) IN GENERAL.—Section 3(g) of the Federal Deposit Insurance Act (12 U.S.C. 1813(g)) is amended to read as follows:

"(g) SAVINGS BANK.—The term 'savings bank' means a bank (including a mutual savings bank) which transacts its ordinary banking business strictly as a savings bank under State laws imposing special requirements on such banks governing the manner of investing their funds and of conducting their business.".

12 USC 1831d. (2) TECHNICAL AND CONFORMING AMENDMENT.—Section 27(a) of the Federal Deposit Insurance Act is amended by striking out "and insured mutual savings banks".

12 USC 1841 note. (h) 1987 AMENDMENT TRANSITION RULE.—

(1) DELAY IN APPLICATION OF AMENDMENT TO CERTAIN INSTITUTIONS.—If—

(A) on March 5, 1987, an institution was not a bank (as defined in section 2(c) of the Bank Holding Company Act of 1956), as in effect on such date; and *Ante*, p. 554.

(B) any person which had a controlling interest in such institution on March 5, 1987, made a public announcement before such date that the transfer or other disposition of such person's controlling interest in such institution was being considered,

the institution shall not become a bank (for purposes of the Bank Holding Company Act of 1956) due to the amendment made to such section 2(c) by this section before the date on which such institution fails to meet any requirement of paragraph (2). 12 USC 1841 note.

(2) REQUIREMENTS FOR APPLICATION OF SUBSECTION.—This subsection shall not apply with respect to any institution described in paragraph (1) unless—

(A) the transfer or other disposition of the controlling interest referred to in such paragraph is completed, or an agreement to make such transfer or other disposition is in effect (or is subject only to final approval by the appropriate Federal and State regulatory agencies), before the end of the 180-day period beginning on the date of the enactment of this title;

(B) a written notice by the person acquiring a controlling interest in such institution (pursuant to the transfer or other disposition described in subparagraph (A)) of such person's intention to operate such institution as an institution described in section 2(c)(2)(F) of the Bank Holding Company Act of 1956, as in effect after the enactment of this title is filed with the Board before the end of the 7-day period beginning on the later of the date of such transfer (or other disposition) or the date of the enactment of this title; and 101 STAT. 564 *Ante*, p. 554.

(C) the operation of such institution as an institution described in such section 2(c)(2)(F) begins before the end of the 180-day period beginning on the date the transfer (or other disposition) described in subparagraph (A) is completed.

(3) CONTROLLING INTEREST.—For purposes of this subsection, a person has a controlling interest in any institution if such person controls—

(A) such institution; or

(B) any company which controls such institution,

as determined in accordance with the provisions of subsections (b) and (g) of section 2 of the Bank Holding Company Act of 1956.

SEC. 102. AMENDMENTS TO THE FEDERAL RESERVE ACT.

(a) IN GENERAL.—The Federal Reserve Act is amended by inserting after section 23A the following:

"RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES

"SEC. 23B. (a) IN GENERAL.— 12 USC 371c-1.

"(1) TERMS.—A member bank and its subsidiaries may engage in any of the transactions described in paragraph (2) only—

"(A) on terms and under circumstances, including credit standards, that are substantially the same, or at least as favorable to such bank or its subsidiary, as those prevailing at the time for comparable transactions with or involving other nonaffiliated companies, or

"(B) in the absence of comparable transactions, on terms and under circumstances, including credit standards, that in good faith would be offered to, or would apply to, nonaffiliated companies.

"(2) TRANSACTIONS COVERED.—Paragraph (1) applies to the following:

"(A) Any covered transaction with an affiliate.

"(B) The sale of securities or other assets to an affiliate, including assets subject to an agreement to repurchase.

"(C) The payment of money or the furnishing of services to an affiliate under contract, lease, or otherwise.

"(D) Any transaction in which an affiliate acts as an agent or broker or receives a fee for its services to the bank or to any other person.

"(E) Any transaction or series of transactions with a third party—

"(i) if an affiliate has a financial interest in the third party, or

"(ii) if an affiliate is a participant in such transaction or series of transactions. 101 STAT. 565

"(3) TRANSACTIONS THAT BENEFIT AN AFFILIATE.—For the purpose of this subsection, any transaction by a member bank or its subsidiary with any person shall be deemed to be a transaction with an affiliate of such bank if any of the proceeds of the transaction are used for the benefit of, or transferred to, such affiliate.

"(b) PROHIBITED TRANSACTIONS.—

"(1) IN GENERAL.—A member bank or its subsidiary—

"(A) shall not purchase as fiduciary any securities or other assets from any affiliate unless such purchase is permitted—

"(i) under the instrument creating the fiduciary relationship,

"(ii) by court order, or

"(iii) by law of the jurisdiction governing the fiduciary relationship; and

"(B) whether acting as principal or fiduciary, shall not knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security if a principal underwriter of that security is an affiliate of such bank.

"(2) EXCEPTION.—Subparagraph (B) of paragraph (1) shall not apply if the purchase or acquisition of such securities has been approved, before such securities are initially offered for sale to the public, by a majority of the directors of the bank who are not officers or employees of the bank or any affiliate thereof.

"(3) DEFINITIONS.—For the purpose of this subsection—

"(A) the term 'security' has the meaning given to such term in section 3(a)(10) of the Securities Exchange Act of 1934; and 15 USC 78c.

"(B) the term 'principal underwriter' means any underwriter who, in connection with a primary distribution of securities—

"(i) is in privity of contract with the issuer or an affiliated person of the issuer;

"(ii) acting alone or in concert with one or more other persons, initiates or directs the formation of an underwriting syndicate; or

"(iii) is allowed a rate of gross commission, spread, or other profit greater than the rate allowed another underwriter participating in the distribution.

"(c) ADVERTISING RESTRICTION.—A member bank or any subsidiary or affiliate of a member bank shall not publish any advertisement or enter into any agreement stating or suggesting that the bank shall in any way be responsible for the obligations of its affiliates.

"(d) DEFINITIONS.—For the purpose of this section—

"(1) the term 'affiliate' has the meaning given to such term in section 23A (but does not include any company described in section (b)(2) of such section or any bank);

12 USC 371c.

"(2) the terms 'bank', 'subsidiary', 'person', and 'security' (other than security as used in subsection (b)) have the meanings given to such terms in section 23A; and

"(3) the term 'covered transaction' has the meaning given to such term in section 23A (but does not include any transaction which is exempt from such definition under subsection (d) of such section).

101 STAT. 566

"(e) REGULATIONS.—The Board may prescribe regulations to administer and carry out the purposes of this section, including—

"(1) regulations to further define terms used in this section; and

"(2) regulations to—

"(A) exempt transactions or relationships from the requirements of this section; and

"(B) exclude any subsidiary of a bank holding company from the definition of affiliate for purposes of this section,

if the Board finds such exemptions or exclusions are in the public interest and are consistent with the purposes of this section.".

(b) CONFORMING AMENDMENTS.—Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is hereby amended—

(1) by inserting "and section 23B" after "section 23A" at each place it appears in paragraph (1); and

(2) by inserting ", 23B," after "23A" in paragraph (3)(A).

(c) TREATMENT OF EDGE ACT AND AGREEMENT CORPORATIONS FOR PURPOSES OF THE BANK HOLDING COMPANY ACT.—

(1) IN GENERAL.—The paragraph of section 25(a) of the Federal Reserve Act which begins "Except as otherwise provided in this section, a majority" (the 11th full paragraph) (12 U.S.C. 619) is amended by adding at the end thereof the following: "Any company, other than a bank as defined in section 2 of the Bank Holding Company Act of 1956, that after March 5, 1987, directly or indirectly acquires control of a corporation organized or operating under the provisions of this section or section 25 shall be subject to the provisions of the Bank Holding Company Act of 1956 in the same manner and to the same extent that bank holding companies are subject thereto, except that such company shall not by reason of this paragraph be deemed a bank holding company for the purpose of section 3 of the Bank Holding Company Act of 1956.".

12 USC 611-631.

Ante, pp. 554, 557.

12 USC 1841 note.

Ante, p. 561; *post*, p. 579. England.

(2) EXCEPTION.—The amendment made by paragraph (1) does not apply to an acquisition pursuant to the application by Midland Bank, plc, London, England, pending before the Board of Governors of the Federal Reserve System on July 1, 1987, to acquire a corporation organized or operating under section 25(a) of the Federal Reserve Act. If Midland Bank, plc, London, England, is not otherwise subject to section 4 of the Bank Holding Company Act of 1956, the financial activities of Midland Bank, plc, London, England, in the United States shall, upon the determination of the Board of Governors of the Federal Reserve System made at any time, be subject to section 4 of the Bank Holding Company Act of 1956.

12 USC 619 note.

Ante, p. 557.

SEC. 103. SECURITIES AFFILIATIONS OF NONMEMBER INSURED BANKS.

(a) IN GENERAL.—Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended by redesignating paragraph (3) (as amended by section 102(b)(2)) and paragraph (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) SECURITIES AFFILIATIONS OF INSURED NONMEMBER BANKS.—

"(A) IN GENERAL.—The provisions of section 20 of the Banking Act of 1933 (relating to affiliations between member banks and organizations engaged principally in certain securities activities), and the provisions of section 32 of the Banking Act of 1933 (relating to certain officer, director, or employee relationships involving a member bank and a person or organization primarily engaged in certain securities activities) shall apply to every insured nonmember bank in the same manner and to the same extent as if such insured nonmember bank were a member bank. 12 USC 377. 12 USC 78. 101 STAT. 567

"(B) CONTINUATION OF CERTAIN AFFILIATIONS.—This paragraph shall not prohibit the continuation of such an affiliation or relationship which commenced before March 5, 1987, or the establishment of such an officer, director, or employee relationship in connection with any affiliation established before March 5, 1987.

"(C) 2-YEAR PERIOD.—An affiliation or officer, director, or employee relationship that becomes unlawful as a result of the enactment of this paragraph may continue for a period of 2 years after the date of enactment of this paragraph.

"(D) FOREIGN BANKS.—The provisions of this paragraph shall not apply to any foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978, solely because it has an insured branch in the United States, except that the provisions of section 32 of the Banking Act of 1933 shall apply to an insured branch as if it were an insured bank. 12 USC 3101. 12 USC 78.

"(E) EXCEPTIONS.—The provisions of this paragraph shall not apply to any institution described in subparagraph (D), (F), or (I) of section 2(c)(2) of the Bank Holding Company Act of 1956. *Ante*, p. 554.

"(F) APPLICABILITY.—This paragraph shall apply during the period beginning on March 6, 1987, and ending on March 1, 1988.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 18(j)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) (as redesignated by subsection (a)) is amended by inserting "or any provision of section 20 of the Banking Act of 1933," after "or any lawful regulation issued pursuant thereto,". 12 USC 377.

SEC. 104. AMENDMENTS TO SAVINGS AND LOAN HOLDING COMPANY PROVISIONS OF THE NATIONAL HOUSING ACT.

(a) DEFINITIONS.—Section 408(a)(1) of the National Housing Act (12 U.S.C. 1730a(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (I);

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(K) the terms 'bank holding company' and 'bank' have the meanings given to such terms in subsections (a) and (c), respectively, of section 2 of the Bank Holding Company Act of 1956; and *Ante*, pp. 554, 557.

"(L) the term 'acquire' has the meaning given to such term in section 13(f)(8)(E) of the Federal Deposit Insurance Act.". 12 USC 1823.

(b) HOLDING COMPANY ACTIVITIES.—Section 408(c) of the National Housing Act (12 U.S.C. 1730a(c)) is amended to read as follows:

"(c) HOLDING COMPANY ACTIVITIES.—

"(1) PROHIBITED ACTIVITIES.—Except as otherwise provided in this subsection, no savings and loan holding company and no subsidiary (of such company) which is not an insured institution shall—

101 STAT. 568

"(A) engage in any activity or render any service for or on behalf of an insured institution subsidiary for the purpose or with the effect of evading any law or regulation applicable to such insured institution;

"(B) commence any business activity, other than the activities described in paragraph (2), after the date of the enactment of the Competitive Equality Amendments of 1987; or

"(C) continue any business activity, other than the activities described in paragraph (2), after the later of—

"(i) the end of the 2-year period beginning on the date of the enactment of the Competitive Equality Amendments of 1987; or

"(ii) the date on which such company received approval under subsection (e) of this section to become a savings and loan holding company.

"(2) EXEMPT ACTIVITIES.—The prohibitions of subparagraphs (B) and (C) of paragraph (1) shall not apply to the following business activities of any savings and loan holding company or any subsidiary (of such company) which is not an insured institution:

"(A) Furnishing or performing management services for an insured institution subsidiary of such company.

"(B) Conducting an insurance agency or escrow business.

"(C) Holding, managing, or liquidating assets owned or acquired from an insured institution subsidiary of such company.

"(D) Holding or managing properties used or occupied by an insured institution subsidiary of such company.

"(E) Acting as trustee under deed of trust.

"(F) Any other activity—

"(i) which the Board of Governors of the Federal Reserve System, by regulation, has determined to be permissible for bank holding companies under section 4(c) of the Bank Holding Company Act of 1956, unless the Corporation, by regulation, prohibits or limits any such activity for savings and loan holding companies; or

12 USC 1843.

"(ii) in which multiple savings and loan holding companies were authorized (by regulation) to directly engage on March 5, 1987.

"(3) CERTAIN LIMITATIONS ON ACTIVITIES NOT APPLICABLE TO CERTAIN HOLDING COMPANIES.—Notwithstanding paragraphs (4) and (6) of this subsection, the limitations contained in subparagraphs (B) and (C) of paragraph (1) shall not apply to any savings and loan holding company (or any subsidiary of such company) which controls—

"(A) only 1 insured institution, if the insured institution subsidiary of such company is a qualified thrift lender (as determined under subsection (o)); or

"(B) more than 1 insured institution, if—

"(i) all, or all but 1, of the insured institution subsidiaries of such company were acquired pursuant to an acquisition under subsection (m) of this section or section 406(f); and

Post, p. 613.

101 STAT. 569

"(ii) all of the insured institution subsidiaries of such company are qualified thrift lenders (as determined under subsection (o)).

"(4) PRIOR APPROVAL OF CERTAIN NEW ACTIVITIES REQUIRED.—

"(A) IN GENERAL.—No savings and loan holding company and no subsidiary (of such company) which is not an insured institution shall commence, either de novo or by an acquisition (in whole or in part) of a going concern, any activity described in paragraph (2)(F)(i) of this subsection without the prior approval of the Corporation.

"(B) FACTORS TO BE CONSIDERED BY CORPORATION.—In considering any application under subparagraph (A) by any savings and loan holding company or any subsidiary of any such company which is not an insured institution, the Corporation shall consider—

"(i) whether the performance of the activity described in such application by the company or the subsidiary can reasonably be expected to produce benefits to the public (such as greater convenience, increased competition, or gains in efficiency) that outweigh possible adverse effects of such activity (such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound financial practices);

"(ii) the managerial resources of the companies involved; and

"(iii) the adequacy of the financial resources, including capital, of the companies involved.

"(C) CORPORATION MAY DIFFERENTIATE BETWEEN NEW AND ONGOING ACTIVITIES.—In prescribing any regulation or considering any application under this paragraph, the Corporation may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern.

"(D) APPROVAL OR DISAPPROVAL BY ORDER.—The approval or disapproval of any application under this paragraph by the Corporation shall be made in an order issued by the Corporation containing the reasons for such approval or disapproval.

"(5) GRACE PERIOD TO ACHIEVE COMPLIANCE.—If any insured institution referred to in paragraph (3) fails to maintain the status of such institution as a qualified thrift lender, the Corporation may allow, for good cause shown, any company which controls such institution (or any subsidiary of such company which is not an insured institution) up to 3 years to comply with the limitations contained in paragraph (1)(C).

"(6) SPECIAL PROVISIONS RELATING TO CERTAIN COMPANIES AFFECTED BY 1987 AMENDMENTS.—

"(A) EXCEPTION TO 2-YEAR GRACE PERIOD FOR ACHIEVING COMPLIANCE.—Notwithstanding paragraph (1)(C)(i), any company which received approval under subsection (e) of this section to acquire control of an insured institution between March 5, 1987, and the date of the enactment of the Competitive Equality Amendments of 1987 shall not continue any business activity other than the activities described in paragraph (2) after such date of enactment. 101 STAT. 570

"(B) EXEMPTION FOR ACTIVITIES LAWFULLY ENGAGED IN BEFORE MARCH 5, 1987.—Notwithstanding paragraph (1)(C) and subject to subparagraphs (C) and (D), any savings and loan holding company which received approval, before March 5, 1987, under subsection (e) of this section to acquire control of an insured institution may engage, directly or through any subsidiary (other than an insured institution subsidiary of such company), in any activity in which such company or such subsidiary was lawfully engaged on such date.

"(C) TERMINATION OF SUBPARAGRAPH (B) EXEMPTION.—The exemption provided under subparagraph (B) for activities engaged in by any savings and loan holding company or a subsidiary of such company (which is not an insured institution) which would otherwise be prohibited under paragraph (1)(C) shall terminate with respect to such activities of such company or subsidiary upon the occurrence (after the date of the enactment of the Competitive Equality Amendments of 1987) of any of the following:

"(i) The savings and loan holding company acquires control of a bank or an additional insured institution (other than an insured institution acquired pursuant to subsection (m) of this section or section 406(f)).

Post, p. 613.

"(ii) Any insured institution subsidiary of the savings and loan holding company fails to qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1986.

26 USC 7701.
100 Stat. 2095.

"(iii) The savings and loan holding company engages in any business activity—

"(I) which is not described in paragraph (2); and

"(II) in which it was not engaged on March 5, 1987.

"(iv) Any insured institution subsidiary of the savings and loan holding company increases the number of locations from which such insured institution conducts business after March 5, 1987 (other than an increase which occurs in connection with a transaction under subsection (m) of this section or section 406(f)).

"(v) Any insured institution subsidiary of the savings and loan holding company permits any overdraft (including an intraday overdraft), or incurs any such overdraft in its account at a Federal Reserve bank, on behalf of an affiliate, unless such overdraft is the result of an inadvertent computer or accounting error that is beyond the control of both the insured institution subsidiary and the affiliate.

"(D) ORDER BY CORPORATION TO TERMINATE SUBPARAGRAPH (B) ACTIVITY.—Any activity described in subparagraph (B) may also be terminated by the Corporation, after opportunity for hearing, if the Corporation determines, having due regard for the purposes of this title, that such action is necessary to prevent conflicts of interest or unsound practices or is in the public interest.

"(7) FOREIGN SAVINGS AND LOAN HOLDING COMPANY.—Notwithstanding any other provision of this section, any savings and loan holding company organized under the laws of a foreign country as of June 1, 1984 (including any subsidiary thereof which is not an insured institution), which controls a single insured institution on the date of enactment of the Competitive Equality Amendments of 1987 shall not be subject to this subsection with respect to any activities of such holding company which are conducted exclusively in a foreign country.".

101 STAT. 571

(c) REQUIREMENTS FOR TREATMENT AS A QUALIFIED THRIFT LENDER.—

(1) IN GENERAL.—Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by adding at the end thereof the following new subsection:

"(o) QUALIFIED THRIFT LENDER REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any insured institution shall have the status of a qualified thrift lender if—

"(A) the qualified thrift investments of such insured institution equal or exceed 60 percent of the total tangible assets of such institution; and

"(B) the qualified thrift investments of such insured institution continue to equal or exceed 60 percent of the total tangible assets of such institution on an average basis in 3 out of every 4 quarters and 2 out of every 3 years.

"(2) TRANSITION RULE FOR CERTAIN INSTITUTIONS.—

"(A) IN GENERAL.—If any insured institution—

"(i) which was chartered as a savings bank or a cooperative bank under State law before October 15, 1982; or

"(ii) the principal assets of which were acquired from an institution which was chartered as a savings bank

or a cooperative bank under State law before October 15, 1982,

meets the requirements of subparagraph (B), such insured institution shall be treated as a qualified thrift lender during the 10-year period beginning on January 1, 1988.

"(B) SUBPARAGRAPH (B) REQUIREMENTS.—An insured institution meets the requirements of this subparagraph if, in the determination of the Corporation—

"(i) the actual thrift investment percentage of such institution does not, after the date of the enactment of the Competitive Equality Amendments of 1987, decrease below the actual thrift investment percentage of such institution on such date of enactment; and

"(ii) the amount by which—

"(I) the actual thrift investment percentage of such institution at the end of each period described in the following table, exceeds

"(II) the actual thrift investment percentage of such institution on such date of enactment,

is equal to or greater than the applicable percentage (as determined under the following table) of the amount by which 60 percent exceeds the actual thrift investment percentage of such institution on such date of enactment:

"For the following period:	The applicable percentage is:
The 2½-year period beginning on such date of enactment	25 percent
The 5-year period beginning on such date of enactment	50 percent
The 7½-year period beginning on such date of enactment	75 percent

101 STAT. 572

"(3) EXCEPTIONS GRANTED BY CORPORATION.—Notwithstanding paragraph (1), the Corporation may grant such temporary and limited exceptions from the minimum actual thrift investment percentage requirement contained in such paragraph as the Corporation deems necessary if—

"(A) the Corporation determines that extraordinary circumstances exist, such as when the effects of high interest rates reduce mortgage demand to such a degree that an insufficient opportunity exists for an insured institution to meet such investment requirements; or

"(B) the Corporation determines that—

"(i) the grant of any such exception will facilitate an acquisition under section 406(f) or 408(m); and

Post, pp. 613, 575.

"(ii) the acquired institution will comply with the transition requirements of paragraph (2)(B).

"(4) FAILURE TO MAINTAIN QTL STATUS.—Any insured institution which fails to maintain its status as a qualified thrift lender, as determined by the Corporation, may not thereafter be a qualified thrift lender for a period of 5 years.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) ACTUAL THRIFT INVESTMENT PERCENTAGE.—The term 'actual thrift investment percentage' means the percentage determined by dividing—

"(i) the amount of the qualified thrift investments of an insured institution, by

"(ii) the total amount of tangible assets of such insured institution.

"(B) QUALIFIED THRIFT INVESTMENTS.—The term 'qualified thrift investments' means, with respect to any insured institution, the sum of—

"(i) the aggregate amount of loans, equity positions, or securities held by the insured institution (or any subsidiary of such institution) which are related to domestic residential real estate or manufactured housing;

"(ii) the value of property used by such institution or subsidiary in the conduct of the business of such institution or subsidiary;

"(iii) subject to paragraph (6), the liquid assets of the type required to be maintained under section 5A of the
12 USC 1425a. Federal Home Loan Bank Act; and

"(iv) subject to paragraph (6), 50 percent of the dollar amount of the residential mortgage loans originated by such insured institution or subsidiary and sold within 90 days of origination.

"(6) LIMITATION ON TREATMENT OF CERTAIN ASSETS AS THRIFT INVESTMENTS.—The aggregate amount of the assets described in clauses (iii) and (iv) of paragraph (5)(B) which may be taken into account in determining the amount of the qualified thrift investments of any insured institution shall not exceed the amount which is equal to 10 percent of the tangible assets of such institution.

"(7) ADDITIONAL TRANSITION RULE.—The insured institution
101 STAT. 573 described in subsection (r)(2)(C) shall be treated as a qualified thrift lender during the 10-year period beginning on January 1, 1988, if the requirements of paragraph (2)(B) are met by such institution.".

12 USC 1730a note. (2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1, 1988.

12 USC 1730a note. (3) REGULATIONS.—The Federal Savings and Loan Insurance Corporation shall prescribe, under the authority of section 12 USC 1730a. 408(h)(1) of the National Housing Act, regulations to carry out the provisions of the amendment made by paragraph (1) before January 1, 1988.

(d) TRANSACTIONS BETWEEN INSURED INSTITUTION SUBSIDIARIES AND CERTAIN AFFILIATES.—

(1) IN GENERAL.—Section 408 of the National Housing Act (12 U.S.C. 1730a(d)) is amended by adding after subsection (o) (as added by subsection (c) of this section) the following new subsection:

"(p) RESTRICTIONS ON ACTIVITIES OF CERTAIN INSURED INSTITUTION SUBSIDIARIES.—

"(1) TRANSACTIONS WITH CERTAIN AFFILIATES.—

"(A) IN GENERAL.—Transactions between any insured institution subsidiary of a savings and loan holding company and any affiliate (of such insured institution subsidiary) which is engaged only in business activities described in subsection (c)(2)(F)(i)—

"(i) shall not be subject to subsection (d); and

"(ii) shall be subject to the limitations and prohibitions specified in sections 23A and 23B of the Federal
12 USC 371c; *ante*, p. 564. Reserve Act in the same manner and to the same extent as if such insured institution were a member bank.

"(B) REGULATIONS.—The Corporation may prescribe regulations for the purpose of defining and clarifying the applicability of the limitations and prohibitions described in subparagraph (A).

"(2) CROSS-MARKETING PRACTICES.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, an insured institution subsidiary of a diversified savings and loan holding company may not offer or market products or services of an affiliate that are not permissible for bank holding companies to provide under
12 USC 1843. section 4(c)(8) of the Bank Holding Company Act of 1956 or permit its products or services to be offered or marketed by or through an affiliate (other than an affiliate that engages only in activities permissible for bank holding companies under section 4(c) of that Act), unless such products or services were being so offered or marketed as of March 5, 1987, and then only in the same manner in which they were being offered or marketed as of that date.

"(B) EXCEPTION.—This paragraph shall not apply so as to

prohibit an insured institution subsidiary of a diversified savings and loan holding company from offering or marketing the products or services of an affiliate or from permitting its products or services to be offered or marketed by or through an affiliate if—

"(i) the savings and loan holding company is a reciprocal interinsurance exchange that acquired control of the insured institution before January 1, 1984; and

"(ii) at least 90 percent of the customers of the savings and loan holding company and its subsidiaries and affiliates are active or former officers in the United States military services or the widows, widowers, divorced spouses, or current or former dependents of such officers.". Armed Forces.

(2) TECHNICAL AMENDMENT.—Section 408(d) of the National Housing Act (12 U.S.C. 1730a(d)) is amended by striking out "No savings and loan" and inserting in lieu thereof "Except as provided in subsection (p), no savings and loan".

(e) TYING RESTRICTIONS.—Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by inserting after subsection (p) (as added by subsection (d) of this section) the following new subsection:

"(q) TYING RESTRICTIONS.—

"(1) STATE CHARTERED INSURED INSTITUTION SUBSIDIARIES.—A State chartered insured institution subsidiary of a savings and loan holding company shall be subject to section 5(q) of the Home Owners' Loan Act of 1933, and regulations prescribed under such subsection, in the same manner and to the same extent as an association (as defined in section 2(d) of such Act). 12 USC 1464. 12 USC 1462.

"(2) HOLDING COMPANIES AND CERTAIN AFFILIATES.—A savings and loan holding company and any of its affiliates (other than an insured institution) shall be subject to section 5(q) of the Home Owners' Loan Act of 1933, and regulations prescribed under such subsection, in connection with transactions involving the products or services of such company or affiliate and those of an affiliated insured institution as if such company or affiliate were an association (as defined in section 2(d) of such Act).".

(f) SAVINGS BANK AS INSURED INSTITUTION.—

(1) IN GENERAL.—Section 408(n) of the National Housing Act (12 U.S.C. 1730a) is amended to read as follows:

"(n) TREATMENT OF FDIC INSURED STATE SAVINGS BANKS AND COOPERATIVE BANKS AS INSURED INSTITUTIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a savings bank (as defined in section 3(g) of the Federal Deposit Insurance Act) and a cooperative bank that is an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act) upon application shall be deemed to be an insured institution for the purpose of this section, if the Corporation determines that such bank is a qualified thrift lender (as determined under subsection (o)). *Ante*, p. 563.

"(2) FAILURE TO MAINTAIN QTL STATUS.—If any savings bank which is deemed to be an insured institution under paragraph (1) subsequently fails to maintain its status as a qualified thrift lender, as determined by the Corporation, such bank may not thereafter be a qualified thrift lender for a period of 5 years.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 408(a)(1)(A) of the National Housing Act (12 U.S.C. 1730a(a)(1)(A)) is amended by adding before the semicolon at the end thereof the following: "and a savings bank which is deemed by the Corporation to be an insured institution under subsection (n)".

(g) THRIFT ACQUISITIONS.—Section 408(e)(3) of the National Housing Act (12 U.S.C. 1730(e)) is amended to read as follows: 12 USC 1730a.

"(3) INTERSTATE ACQUISITIONS.—No acquisition shall be approved by the Corporation under this subsection which will result in the

101 STAT. 575

formation by any company, through one or more subsidiaries or through one or more transactions, of a multiple savings and loan holding company controlling insured institutions in more than one State, unless—

"(A) such company, or an insured institution subsidiary of such company, is authorized to acquire control of an insured institution subsidiary, or to operate a home or branch office, in the additional State or States pursuant to subsection (m);

"(B) such company controls an insured institution subsidiary which operated a home or branch office in the additional State or States as of March 5, 1987; or

"(C) the statute laws of the State in which the insured institution, control of which is to be acquired, is located are such that an insured institution chartered by such State could be acquired by an insured institution chartered by the State where the acquiring insured institution or savings and loan holding company is located (or by a holding company that controls such a State-chartered insured institution), and such statute laws specifically authorize such an acquisition by language to that effect and not merely by implication.".

(h) EMERGENCY ACQUISITIONS.—Section 408(m)(1)(A)(i) of the National Housing Act (12 U.S.C. 1730a(m)(1)(A)(i)) is amended by inserting "(c)," before "(e)(2)".

SEC. 105. AMENDMENT TO THE FEDERAL HOME LOAN BANK ACT.

Post, p. 601.

Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by adding at the end thereof the following:

"(e) REDUCED ELIGIBILITY FOR ADVANCES FOR CERTAIN MEMBERS WHICH ARE NOT QUALIFIED THRIFT LENDERS.—

"(1) IN GENERAL.—Except as the Board may prescribe, a member that is not a qualified thrift lender may not receive advances in excess of the amount determined by multiplying—

"(A) the total amount of advances that such member would be eligible to receive in the absence of this subsection; by

"(B) such member's actual thrift investment percentage.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to—

"(A) a savings bank as defined in section 3(g) of the Federal Deposit Insurance Act;

Ante, p. 563.

"(B) an insured institution which was chartered prior to October 15, 1982, as a savings bank under State law; or

"(C) an insured institution which acquired its principal assets from an institution which was chartered prior to October 15, 1982, as a savings bank under State law.

"(3) DEFINITIONS.—As used in this subsection—

"(A) INSURED INSTITUTION.—The term 'insured institution' has the same meaning as in section 408(a)(1)(A) of the National Housing Act.

Ante, p. 594.

"(B) QUALIFIED THRIFT LENDER.—The term 'qualified thrift lender' has the same meaning as in section 408(o) of the National Housing Act.

Ante, p. 571.

"(C) ACTUAL THRIFT INVESTMENT PERCENTAGE.—The term 'actual thrift investment percentage' has the same meaning as in section 408(o)(5)(A) of the National Housing Act.".

101 STAT. 576

SEC. 106. SECURITIES AFFILIATIONS OF FSLIC INSURED INSTITUTIONS.

(a) IN GENERAL.—Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by inserting after subsection (q) (as added by section 104(e) of this title) the following new subsection:

"(r) SECURITIES AFFILIATIONS.—

"(1) IN GENERAL.—The provisions of section 20 of the Banking Act of 1933 (relating to affiliations between member banks and organizations engaged principally in certain securities activities) and the provisions of section 32 of the Banking Act of 1933

12 USC 377.

12 USC 78.

(relating to certain officer, director, or employee relationships involving a member bank and a person or organization primarily engaged in certain securities activities) shall be applicable to every insured institution in the same manner and to the same extent as if such insured institution were a member bank.

"(2) EXCEPTIONS.—This subsection does not prohibit—

"(A) the continuation of such an affiliation or relationship which commenced prior to March 5, 1987, or the establishment of such an officer, director, or employee relationship in connection with any affiliation established before such date;

"(B) the Washington Mutual Savings Bank, located in the State of Washington, from acquiring control of one or more insured institutions or establishing an officer, director, or employee relationship between such an insured institution and any affiliate of the savings bank referred to in section 18(j)(3)(B) of the Federal Deposit Insurance Act; Washington. *Ante*, p. 566.

"(C) the acquisition of Peoples Savings and Loan Association of Owatonna, Minnesota, by Miller and Schroeder Holdings, Inc. (or any affiliate of such company), or the establishment of any officer, director, or employee relationship between such association and such company or any affiliate of such company, including Miller and Schroeder Financial, Inc.; or Minnesota.

"(D) such an affiliation or officer, director, or employee relationship which results from the acquisition by an organization described in paragraph (1) of an insured institution under subsection (m) of this section, if such institution has total assets of $500,000,000 or more at the time of such acquisition.

"(3) TWO-YEAR PERIOD.—An affiliation or an officer, director, or employee relationship that becomes unlawful as a result of the enactment of this subsection may continue for a period of 2 years after the date of the enactment of this subsection.

"(4) EXEMPT ACTIVITIES OF CERTAIN INSTITUTIONS.—Nothing in this subsection or section 18(j)(3) of the Federal Deposit Insurance Act prohibits an affiliation or an officer, director, or employee relationship between an insured institution or an institution which is eligible to become a member of a Federal Home Loan Bank, and an organization engaged principally in the issuance, sale, underwriting, or distribution, at wholesale or retail, or through syndicate participation, of— Real property.

"(A) securities representing or secured by interests in real estate or real estate loans or pools of real estate loans;

"(B) interests in partnerships formed primarily to own, operate, manage, or invest in real estate; 101 STAT. 577

"(C) insurance products deemed to be securities, including without limitation variable annuities and variable life insurance;

"(D) securities of an investment company, as such term is defined in the Investment Company Act of 1940; and 15 USC 80a-1.

"(E) any securities to the extent such issuance, sale, underwriting, or distribution is permitted for national banks.

"(5) REGULATIONS.—

"(A) IN GENERAL.—The Corporation is authorized to issue rules and regulations and to publish interpretations governing the implementation of this subsection, and shall enforce the provisions of this subsection.

"(B) FEDERAL DEPOSIT INSURANCE CORPORATION AUTHORITY.—For the purpose of paragraph (4), the Federal Deposit Insurance Corporation is authorized to issue rules and regulations and publish interpretations with respect to savings

banks and other institutions subject to section 18(j)(3) of the Federal Deposit Insurance Act.".

Ante, p. 566.

12 USC 1730a note.

(b) EXPIRATION DATE.—The amendment made by subsection (a) shall cease to be effective on March 1, 1988.

SEC. 107. MUTUAL HOLDING COMPANY AMENDMENTS.

(a) IN GENERAL.—Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by inserting after subsection (r) (as added by section 106(a) of this title) the following new subsection:

"(s) MUTUAL HOLDING COMPANIES.—

"(1) IN GENERAL.—Notwithstanding any provision of Federal law other than this title, an insured institution operating in mutual form may reorganize so as to become a holding company by—

"(A) chartering an interim savings institution, the stock of which is to be wholly owned by the mutual institution; and

"(B) transferring the substantial part of its assets and liabilities, including all of its insured liabilities, to the interim savings institution.

"(2) DIRECTORS AND CERTAIN ACCOUNT HOLDERS' APPROVAL OF PLAN REQUIRED.—A reorganization is not authorized under this subsection unless—

"(A) a plan providing for such reorganization has been approved by a majority of the board of directors of the mutual savings institution; and

"(B) in the case of an institution in which holders of accounts and obligors exercise voting rights, such plan has been submitted to and approved by a majority of such individuals at a meeting held at the call of the directors in accordance with the procedures prescribed by the institution's charter and bylaws.

"(3) NOTICE TO THE CORPORATION; DISAPPROVAL PERIOD.—

"(A) NOTICE REQUIRED.—At least 60 days prior to taking any action described in paragraph (1), an insured institution seeking to establish a mutual holding company shall provide written notice to the Corporation. The notice shall contain such relevant information as the Corporation shall require by regulation or by specific request in connection with any particular notice.

101 STAT. 578

"(B) TRANSACTION ALLOWED IF NOT DISAPPROVED.—Unless the Corporation within such 60-day notice period disapproves the proposed holding company formation, or extends for another 30 days the period during which such disapproval may be issued, the insured institution providing such notice may proceed with the transaction, if the requirements of paragraph (2) have been met.

"(C) GROUNDS FOR DISAPPROVAL.—The Corporation may disapprove any proposed holding company formation only if—

"(i) such disapproval is necessary to prevent unsafe or unsound practices;

"(ii) the financial or management resources of the insured institution involved warrant disapproval;

"(iii) the insured institution fails to furnish the information required under subparagraph (A); or

"(iv) the insured institution fails to comply with the requirement of paragraph (2).

"(D) RETENTION OF CAPITAL ASSETS.—In connection with the transaction described in paragraph (1), an insured institution may, subject to the approval of the Corporation, retain capital assets at the holding company level to the extent that such capital exceeds adequate reserves as prescribed pursuant to section 403(b) or the comparable provisions of State or Federal law.

12 USC 1726.

"(4) OWNERSHIP.—Persons having ownership rights in the mutual institution pursuant to section 5(b)(1)(B) of the Home Owners' Loan Act of 1933 or State law shall have the same ownership rights with respect to the mutual holding company. 12 USC 1464.

"(5) PERMITTED ACTIVITIES.—A mutual holding company may engage only in the following activities:

"(A) Investing in the stock of an insured institution.

"(B) Acquiring a mutual institution through the merger of such institution into an insured institution subsidiary of such holding company or an interim savings institution subsidiary of such holding company.

"(C) Subject to paragraph (6), merging with or acquiring another holding company, one of whose subsidiaries is an insured institution.

"(D) Investing in a corporation the capital stock of which is available for purchase by an insured institution under Federal law or under the law of any State where the subsidiary insured institution or institutions have their home offices.

"(E) Engaging in the activities described in subsection (c)(2), except subparagraph (B).

"(6) LIMITATIONS ON CERTAIN ACTIVITIES OF ACQUIRED HOLDING COMPANIES.—

"(A) NEW ACTIVITIES.—If a mutual holding company acquires or merges with another holding company under paragraph (5)(C), the holding company acquired or the holding company resulting from such merger or acquisition may only invest in assets and engage in activities which are authorized under paragraph (5).

"(B) GRACE PERIOD FOR DIVESTING PROHIBITED ASSETS OR DISCONTINUING PROHIBITED ACTIVITIES.—Not later than 2 years following a merger or acquisition described in paragraph (5)(C), the acquired holding company or the holding company resulting from such merger or acquisition shall— 101 STAT. 579

"(i) dispose of any asset which is an asset in which a mutual holding company may not invest under paragraph (5); and

"(ii) cease any activity which is an activity in which a mutual holding company may not engage under paragraph (5).

"(7) REGULATION.—Unless the context otherwise requires, a mutual holding company shall be subject to the other requirements of this section regarding regulation of holding companies.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) MUTUAL HOLDING COMPANY.—The term 'mutual holding company' means a corporation organized as a holding company under this subsection.

"(B) MUTUAL INSTITUTION.—The term 'mutual institution' means—

"(i) an insured institution; or

"(ii) a savings bank (as defined in section 3(g) of the Federal Deposit Insurance Act), *Ante*, p. 563.

which is operating in mutual form.".

(b) AMENDMENT TO THE BANK HOLDING COMPANY ACT.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end thereof the following: *Ante*, p. 561.

"(g) MUTUAL BANK HOLDING COMPANY.—

"(1) ESTABLISHMENT.—Notwithstanding any provision of Federal law other than this Act, a savings bank or cooperative bank operating in mutual form may reorganize so as to form a holding company.

"(2) REGULATION.—A corporation organized as a holding company under this subsection shall be regulated on the same terms and be subject to the same limitations as any other holding company which controls a savings bank.".

SEC. 108. LEASING AUTHORITY OF NATIONAL BANKS.

Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end thereof the following:

Real property.

"Tenth. To invest in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for lease financing transactions on a net lease basis, but such investment may not exceed 10 percent of the assets of the association.".

SEC. 109. NOW ACCOUNTS.

Section 2(a)(2) of Public Law 93-100 (12 U.S.C. 1832(a)(2)) is amended by inserting the term "political," immediately after "educational,".

SEC. 110. EXEMPTION FROM AFFILIATE TRANSACTION RESTRICTIONS.

Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by inserting after subsection (s) (as added by section 107(a) of this title) the following new subsection:

"(t) EXEMPTION.—

"(1) IN GENERAL.—Subject to paragraph (2), but notwithstanding any other provision of law, an insured institution that is a

101 STAT. 580

subsidiary of an insured institution or insured institutions the voting stock of which is 80 percent owned by the same company shall not be subject—

"(A) to the provisions of subsection (d) of this section as to transactions with such parent insured institution or affiliate insured institutions (and their subsidiaries), or

"(B) to the provisions of subsections (f) and (g).

"(2) LOW QUALITY ASSETS.—An insured institution (or its subsidiary) may not purchase a low quality asset, as such term

12 USC 371c.

is defined in section 23A of the Federal Reserve Act, from another insured institution (or its subsidiary) in a transaction exempted by this subsection and any transaction with another insured institution (or its subsidiary) under this subsection shall be on terms and conditions that are consistent with safe and sound financial practices.

"(3) DEFINITION.—For purposes of this subsection, an 'insured institution' includes an institution that was chartered prior to October 15, 1982, as a savings bank or cooperative bank under State law and that is or becomes a savings and loan holding company or is or becomes a subsidiary of a savings and loan holding company.".

SEC. 111. CONSIDERATION OF CERTAIN ACQUISITIONS.

(a) AMENDMENT TO SECTION 408.—Section 408(e) of the National

Ante, p. 574.

Housing Act (12 U.S.C. 1730a(e)) is amended—

(1) by redesignating paragraph (4) as paragraph (5);

(2) by inserting a new paragraph (4) to read as follows:

"(4) CONSIDERATION OF LOSS OF CERTAIN TAX BENEFITS.—

"(A) IN GENERAL.—In each case in which a filing of any type is required by this section, or regulations prescribed under this section, before the acquisition of stock of an insured institution, the Corporation, in evaluating such filing, may consider the likelihood that the proposed acquisition will result in the loss or reduction of the tax benefits of the insured institution's net operating loss carryforwards under section 382 of the Internal Revenue Code of 1986.

26 USC 382.
100 Stat. 2095.

"(B) REQUIRED CONSIDERATION IN CERTAIN CASES.—The Corporation shall, with respect to any acquisition, give consideration to the likelihood of future loss or reduction of the tax benefits of an insured institution's net operating loss carryforwards under section 382 of the Internal Revenue Code of 1986 if such net operating loss carryforwards

result from the insured institution's acquisition of one or more insured institutions under subsection (m) of this section or section 406(f) or pursuant to acquisitions that are otherwise deemed to be supervisory cases by the Corporation.

Post, p. 613.

"(C) PERMITTED TRANSACTIONS.—Notwithstanding subparagraph (A) or (B), the Corporation may permit—

"(i) acquisitions in which the proposed acquirer commits itself in writing to maintain the ratio of tangible equity capital to liabilities of the insured institution to be acquired, as determined in accordance with generally accepted accounting principles, in an amount equal to the ratio in existence at the time of filing with the Corporation,

"(ii) acquisitions which are approved by the holders of a majority of the voting stock of the institution to be acquired, or

"(iii) acquisitions pursuant to subsection (m) of this section or section 406(f) or pursuant to acquisitions that are otherwise deemed to be supervisory cases by the Corporation.".

Post, p. 613.

(b) AMENDMENT TO SECTION 407.—Section 407(q) of the National Housing Act (12 U.S.C. 1730(q)) is amended—

(1) by redesignating paragraphs (8) through (18) as paragraphs (9) through (19), respectively;

(2) by inserting a new paragraph (8) to read as follows:

"(8) CONSIDERATION OF LOSS OF CERTAIN TAX BENEFITS.—

"(A) IN GENERAL.—In each case in which a filing of any type is made under this subsection, or regulations prescribed under this section, before the acquisition of stock of an insured institution, the Corporation, in evaluating such filing, may consider the likelihood that the proposed acquisition will result in the loss or reduction of the tax benefits of an insured institution's net operating loss carryforwards under section 382 of the Internal Revenue Code of 1986.

26 USC 382.
100 Stat. 2095.

"(B) REQUIRED CONSIDERATION IN CERTAIN CASES.—The Corporation shall, with respect to any acquisition, give consideration to the likelihood of future loss or reduction of the tax benefits of an insured institution's net operating loss carryforwards under section 382 of the Internal Revenue Code of 1986 if such net operating loss carry forwards result from the insured institution's acquisition of one or more insured institutions under section 406(f) or 408(m) or pursuant to acquisitions that are otherwise deemed to be supervisory cases by the Corporation.

12 USC 1730a.

"(C) PERMITTED TRANSACTIONS.—Notwithstanding subparagraph (A) or (B), the Corporation may permit—

"(i) acquisitions in which the proposed acquirer commits itself in writing to maintain the ratio of tangible equity capital to liabilities of the insured institutions to be acquired, as determined in accordance with generally accepted accounting principles, in an amount equal to the ratio in existence at the time of filing with the Corporation,

"(ii) acquisitions which are approved by the holders of a majority of the voting stock of the institution to be acquired, or

"(iii) acquisitions under section 406(f) or 408(m), or are acquisitions that are otherwise deemed to be supervisory cases by the Corporation.".

TITLE II—MORATORIUM ON CERTAIN NONBANKING ACTIVITIES

12 USC 1841 note.

SEC. 201. MORATORIUM ON CERTAIN NONBANKING ACTIVITIES.

(a) APPLICABILITY.—The provisions of this section shall apply during the period beginning on March 6, 1987, and ending on March 1, 1988.

101 STAT. 582

(b) MORATORIUM.—

(1) A foreign bank or other company covered by subsection (c) of section 8 of the International Banking Act of 1978 (12 U.S.C. 3106(c)) shall not, under any provision of law which is not applicable to domestic bank holding companies, expand any activity in which it is engaged pursuant to that subsection by acquiring an interest in, or the assets of, a going concern. This paragraph shall not apply to any "domestically-controlled affiliate covered in 1978" as defined in that subsection.

(2) A Federal banking agency may not authorize or allow by action, inaction, or otherwise any bank holding company or subsidiary or affiliate thereof, any foreign bank or other company subject to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) under section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)), or any insured bank or subsidiary or affiliate thereof to engage in the United States to any extent whatever—

(A) in the flotation, underwriting, public sale, dealing in, or distribution of securities if that approval would require the agency to determine that the entity which would conduct such activities would not be engaged principally in such activities,

(B) in any securities activity not legally authorized in writing prior to March 5, 1987, or

(C) in the operation of a nondealer marketplace in options.

Subparagraph (B) shall not affect (i) activities in which any bank holding company or subsidiary or affiliate thereof, any foreign bank or other company subject to the Bank Holding Company Act of 1956 under section 8(a) of the International Banking Act of 1978, or any insured bank or subsidiary or affiliate thereof acts only as an agent; (ii) activities which had been lawfully engaged in prior to March 5, 1987; or (iii) sales or transactions closed on or before June 30, 1987.

(3) A Federal banking agency may not issue any rule, regulation, or order that would have the effect of increasing the insurance powers of banks, bank holding companies, foreign banks or other companies subject to the Bank Holding Company Act of 1956 under section 8(a) of the International Banking Act of 1978, or banking or nonbanking subsidiaries thereof with respect to any activities in the United States, either with respect to specific banks or bank holding companies or subsidiaries thereof or generally beyond those expressly authorized for bank holding companies under subparagraphs (A) through (G) of section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)(A) through (G)).

(4) Except as provided in section 3(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(f)), as added by section 101(d) of this Act, the Board of Governors of the Federal Reserve System may not approve the acquisition by a bank holding company or by a foreign bank or other company subject to the Bank Holding Company Act of 1956 under section 8(a) of the International Banking Act of 1978, of any company, including a State-chartered bank, unless the bank holding company, foreign bank, or other company has agreed to limit the insurance activities in the United States of the company to be acquired to

those permissible under section 4(c)(8) of the Bank Holding Company Act of 1956. This paragraph shall not apply to the acquisition of a State-chartered bank that upon acquisition would be subject to the Bank Holding Company Act of 1956, pursuant to a reorganization plan under which the stockholders of the bank exchange their shares for shares in a newly created bank holding company which is not a subsidiary of any other company or to the acquisition of a State-chartered bank by a bank holding company that on March 6, 1987, controlled one or more State-chartered banks that have engaged in insurance activities identical to those of the newly acquired institution so long as the bank holding company agrees that it will— 101 STAT. 583

12 USC 1843.

(A) within 2 years of the consummation of its acquisition of the State-chartered bank, divest or terminate that bank's impermissible insurance activities, and

(B) limit the bank's insurance activities during that 2-year period to the renewal of existing policies.

(5) A national bank or a Federal branch or agency of a foreign bank may not expand its insurance agency activities pursuant to the Act of September 7, 1916 (12 U.S.C. 92), into places where it was not conducting such activities as of March 5, 1987.

(6) A Federal banking agency may not issue any rule, regulation, or order that would have the effect of increasing real estate powers in the United States of banks, bank holding companies, foreign banks or other companies subject to the Bank Holding Company Act of 1956 under section 8(a) of the International Banking Act of 1978, or of any banking or nonbanking subsidiaries of any such banks or companies.

12 USC 1841 note.
12 USC 3106.

(c) DEFINITIONS.—As used in this section and section 202—

(1) the term "affiliate" has the same meaning as in section 2(j)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)(2)), as added by section 101(a) of this Act;

(2) the term "bank holding company" has the same meaning as in section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a));

(3) the term "Federal banking agency" has the same meaning as the term "appropriate Federal banking agency" has in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)); and

(4) the term "insured bank" has the same meaning as in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)).

(d) INSURANCE AUTHORITY OF BANKING ORGANIZATIONS.—Nothing in this section may be construed to increase or reduce the insurance authority of bank holding companies or banking or nonbanking subsidiaries thereof or of national banks under current law.

(e) INSURANCE AUTHORITY OF CERTAIN STATE-CHARTERED BANKS.—

(1) FREESTANDING STATE-CHARTERED BANKS.—Nothing in this section shall be construed to deny any State the authority to permit its State-chartered banks that are not controlled by bank holding companies from engaging in any insurance activity.

(2) STATE-CHARTERED SUBSIDIARIES OF BANK HOLDING COMPANIES.—In addition, neither the existence of the moratorium nor its expiration shall be construed to increase, decrease, or affect in any way the authority of State-chartered bank subsidiaries of bank holding companies with respect to insurance activities. 101 STAT. 584

SEC. 202. AUTHORITY OF FEDERAL BANKING AGENCIES.

12 USC 1841 note.

Nothing in section 201 may be construed to prevent a Federal banking agency from issuing any rule, regulation, or order pursuant to its legal authority in existence on the day preceding the date of enactment of this Act to expand the securities, insurance, or real estate powers of banks or bank holding companies that are subject

to the moratorium established under section 201 if the effective date of such rule, regulation, or order is delayed until the expiration of such moratorium.

12 USC 1841 note.

SEC. 203. INTENT OF CONGRESS.

(a) COMPREHENSIVE CONGRESSIONAL REVIEW OF BANKING AND FINANCIAL LAWS.—It is the intent of the Congress, through the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, to conduct a comprehensive review of our banking and financial laws and to make decisions on the need for financial restructuring legislation in the light of today's changing financial environment both domestic and international before the expiration of such moratorium.

(b) CONGRESSIONAL INTENT NOT TO RENEW OR EXTEND MORATORIUM.—It is the intent of the Congress not to renew or extend the moratorium established under section 201 whether or not subsequent banking legislation is passed by the Congress.

SEC. 204. AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) TERMINATION OF CERTAIN NONBANKING ACTIVITIES.—Section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by adding at the end thereof the following new paragraph:

"(2) The authority conferred by this subsection on a foreign bank or other company shall terminate 2 years after the date on which such foreign bank or other company becomes a 'bank holding company' as defined in section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)); except that the Board may, upon application of such foreign bank or other company, extend the 2-year period for not more than one year at a time, if, in its judgment, such an extension would not be detrimental to the public interest, but no such extensions shall exceed 3 years in the aggregate.".

(b) CLERICAL AMENDMENT.—Section 8 of the International Banking Act of 1978 is amended by striking out "(c) After" and inserting in lieu thereof "(c)(1) After".

SEC. 205. AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.

(a) EXCEPTION TO NONBANKING PROHIBITIONS.—Section 2(h) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(h)) is amended by striking out paragraph (2) and by adding after paragraph (1) the following new paragraphs:

"(2) Except as provided in paragraph (3), the prohibitions of section 4 of this Act shall not apply to shares of any company organized under the laws of a foreign country (or to shares held by such company in any company engaged in the same general line of business as the investor company or in a business related to the business of the investor company) that is principally engaged in business outside the United States if such shares are held or acquired by a bank holding company organized under the laws of a foreign country that is principally engaged in the banking business outside the United States. For the purpose of this subsection, the term 'section 2(h)(2) company' means any company whose shares are held pursuant to this paragraph.

101 STAT. 585

"(3) Nothing in paragraph (2) authorizes a section 2(h)(2) company to engage in (or acquire or hold more than 5 percent of the outstanding shares of any class of voting securities of a company engaged in) any banking, securities, insurance, or other financial activities, as defined by the Board, in the United States. This paragraph does not prohibit a section 2(h)(2) company from holding shares that were lawfully acquired before the date of enactment of the Competitive Equality Banking Act of 1987.

"(4) No domestic office or subsidiary of a bank holding company or subsidiary thereof holding shares of a section 2(h)(2) company may extend credit to a domestic office or subsidiary of such section 2(h)(2) company on terms more favorable than those afforded similar borrowers in the United States.

"(5) No domestic banking office or bank subsidiary of a bank holding company that controls a section 2(h)(2) company may offer or market products or services of such section 2(h)(2) company, or permit its products or services to be offered or marketed by or through such section 2(h)(2) company, unless such products or services were being so offered or marketed as of March 5, 1987, and then only in the same manner in which they were being offered or marketed as of that date.".

TITLE III—FSLIC RECAPITALIZATION

Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987.
12 USC 226 note.

SEC. 301. SHORT TITLE.

This title may be cited as the "Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987".

SEC. 302. FINANCING CORPORATION ESTABLISHED.

The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 20 the following new section:

"SEC. 21. FINANCING CORPORATION.

12 USC 1441.

"(a) ESTABLISHMENT.—Notwithstanding any other provision of law, the Board shall charter a corporation to be known as the Financing Corporation.

"(b) MANAGEMENT OF FINANCING CORPORATION.—

"(1) DIRECTORATE.—The Financing Corporation shall be under the management of a directorate composed of 3 members as follows:

"(A) The Director of the Office of Finance of the Federal Home Loan Banks (or the head of any successor to such office).

"(B) 2 members selected by the Federal Home Loan Bank Board from among the presidents of the Federal Home Loan Banks.

"(2) TERMS.—Each member appointed under paragraph (1)(B) shall be appointed for a term of 1 year.

"(3) VACANCY.—If any member leaves the office in which such member was serving when appointed to the Directorate—

"(A) such member's service on the Directorate shall terminate on the date such member leaves such office; and

"(B) the successor to the office of such member shall serve the remainder of such member's term.

101 STAT. 586

"(4) EQUAL REPRESENTATION OF BANKS.—No president of a Federal Home Loan Bank may be appointed to serve an additional term on the Directorate until such time as the presidents of each of the other Federal Home Loan Banks have served as many terms on the Directorate as the president of such bank (before the appointment of such president to such additional term).

"(5) CHAIRPERSON.—The Chairman of the Federal Home Loan Bank Board shall select the chairperson of the Directorate from among the 3 members of the Directorate.

"(6) STAFF.—

"(A) NO PAID EMPLOYEES.—The Financing Corporation shall have no paid employees.

"(B) POWERS.—The Directorate may, with the approval of the Board, authorize the officers, employees, or agents of the Federal Home Loan Banks to act for and on behalf of the Financing Corporation in such manner as may be necessary to carry out the functions of the Financing Corporation.

"(7) ADMINISTRATIVE EXPENSES.—

"(A) IN GENERAL.—All administrative expenses of the Financing Corporation shall be paid by the Federal Home Loan Banks.

"(B) PRO RATA DISTRIBUTION.—The amount each Federal Home Loan Bank shall pay shall be determined by the Board by multiplying the total administrative expenses for any period by the percentage arrived at by dividing—

"(i) the aggregate amount the Board required such bank to invest in the Financing Corporation (as of the time of such determination) under paragraphs (4) and (5) of subsection (d) (as computed without regard to paragraph (3) or (6) of such subsection); by

"(ii) the aggregate amount the Board required all Federal Home Loan Banks to invest (as of the time of such determination) under such paragraphs.

"(C) ADMINISTRATIVE EXPENSES DEFINED.—For purposes of this paragraph, the term 'administrative expenses' does not include—

"(i) issuance costs (as such term is defined in subsection (g)(5)(A));

"(ii) any interest on (and any redemption premium with respect to) any obligation of the Financing Corporation; or

"(iii) custodian fees (as such term is defined in subsection (g)(5)(B)).

"(8) REGULATION BY BOARD.—The Directorate shall be subject to such regulations, orders, and directions as the Board may prescribe.

"(9) NO COMPENSATION FROM FINANCING CORPORATION.—Members of the Directorate shall receive no pay, allowances, or benefits from the Financing Corporation by reason of their service on the Directorate.

"(c) POWERS OF FINANCING CORPORATION.—The Financing Corporation shall have only the following powers, subject to the other provisions of this section and such regulations, orders, and directions as the Board may prescribe:

101 STAT. 587

"(1) To issue nonvoting capital stock to the Federal Home Loan Banks.

"(2) To invest in any security issued by the Federal Savings and Loan Insurance Corporation under section 402(b) of the National Housing Act.

Post, p. 597.

"(3) To issue debentures, bonds, or other obligations and to borrow, to give security for any amount borrowed, and to pay interest on (and any redemption premium with respect to) any such obligation or amount.

"(4) To impose assessments in accordance with subsection (f).

"(5) To adopt, alter, and use a corporate seal.

"(6) To have succession until dissolved.

"(7) To enter into contracts.

"(8) To sue and be sued in its corporate capacity, and to complain and defend in any action brought by or against the Financing Corporation in any State or Federal court of competent jurisdiction.

"(9) To exercise such incidental powers not inconsistent with the provisions of this section or section 402(b) of the National Housing Act as are necessary or appropriate to carry out the provisions of this section.

"(d) CAPITALIZATION OF FINANCING CORPORATION.—

"(1) PURCHASE OF CAPITAL STOCK BY FEDERAL HOME LOAN BANKS.—

"(A) IN GENERAL.—Each Federal Home Loan Bank shall invest in nonvoting capital stock of the Financing Corporation at such times and in such amounts as the Board may prescribe under this subsection.

"(B) PAR VALUE; TRANSFERABILITY.—Each share of stock issued by the Financing Corporation to a Federal Home Loan Bank shall have par value in an amount determined by the Board and shall be transferable only among the

Federal Home Loan Banks in the manner and to the extent prescribed by the Board at not less than par value.

"(2) AGGREGATE DOLLAR AMOUNT LIMITATION ON ALL INVESTMENTS.—The aggregate amount of funds invested by all Federal Home Loan Banks in nonvoting capital stock of the Financing Corporation shall not exceed $3,000,000,000.

"(3) MAXIMUM INVESTMENT AMOUNT LIMITATION FOR EACH FEDERAL HOME LOAN BANK.—The cumulative amount of funds invested in nonvoting capital stock of the Financing Corporation by each Federal Home Loan Bank shall not exceed the aggregate amount of—

"(A) the sum of—

"(i) the reserves maintained by such bank on December 31, 1985, pursuant to the requirement contained in the first 2 sentences of section 16; and

"(ii) the undivided profits (as defined in paragraph (7)) of such bank on such date; and

"(B) the sum of—

"(i) the amounts added to reserves after December 31, 1985, pursuant to the requirement contained in the first 2 sentences of section 16; and

"(ii) the undivided profits of such bank accruing after such date.

"(4) PRO RATA DISTRIBUTION OF 1ST $1,000,000,000 INVESTED IN FINANCING CORPORATION BY HOME LOAN BANKS.—With respect to 101 STAT. 588
the first $1,000,000,000 which the Board may require the Federal Home Loan Banks to invest in capital stock of the Financing Corporation under this subsection, the amount which each Federal Home Loan Bank (or any successor to such bank) shall invest shall be determined by the Board by applying to the total amount of such investment by all such banks the percentage appearing in the following table for each such bank:

"Bank	Percentage
Federal Home Loan Bank of Boston	1.8629
Federal Home Loan Bank of New York	9.1006
Federal Home Loan Bank of Pittsburgh	4.2702
Federal Home Loan Bank of Atlanta	14.4007
Federal Home Loan Bank of Cincinnati	8.2653
Federal Home Loan Bank of Indianapolis	5.2863
Federal Home Loan Bank of Chicago	9.6886
Federal Home Loan Bank of Des Moines	6.9301
Federal Home Loan Bank of Dallas	8.8181
Federal Home Loan Bank of Topeka	5.2706
Federal Home Loan Bank of San Francisco	19.9644
Federal Home Loan Bank of Seattle	6.1422

"(5) PRO RATA DISTRIBUTION OF AMOUNTS REQUIRED TO BE INVESTED IN EXCESS OF $1,000,000,000.—With respect to any amount in excess of $1,000,000,000 which the Board may require the Federal Home Loan Banks to invest in capital stock of the Financing Corporation under this subsection, the amount which each Federal Home Loan Bank (or any successor to such bank) shall invest shall be determined by the Board by multiplying such excess amount by the percentage arrived at by dividing—

"(A) the sum of the total assets (as of the most recent December 31) held by all insured institutions which are members of such bank; by

"(B) the sum of the total assets (as of such date) held by all insured institutions which are members of any Federal Home Loan Bank.

"(6) SPECIAL PROVISIONS RELATING TO MAXIMUM AMOUNT LIMITATIONS.—

"(A) IN GENERAL.—If the amount any Federal Home Loan Bank is required to invest in capital stock of the Financing Corporation pursuant to a determination by the Board under paragraph (5) (or under subparagraph (B) of this paragraph) exceeds the maximum investment amount applicable with respect to such bank under paragraph (3) at

the time of such determination (hereinafter in this paragraph referred to as the 'excess amount')—

"(i) the Board shall require each remaining Federal Home Loan Bank to invest (in addition to the amount determined under paragraph (5) for such remaining bank and subject to the maximum investment amount applicable with respect to such remaining bank under paragraph (3) at the time of such determination) in such capital stock on behalf of the bank in the amount determined under subparagraph (B);

"(ii) the Board shall require the bank to subsequently purchase the excess amount of capital stock from the remaining banks in the manner described in subparagraph (C); and

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"(iii) the requirements contained in subparagraphs (D) and (E) relating to the use of net earnings available for dividends shall apply to such bank until the bank has purchased all of the excess amount of capital stock.

"(B) ALLOCATION OF EXCESS AMOUNT AMONG REMAINING HOME LOAN BANKS.—The amount each remaining Federal Home Loan Bank shall be required to invest under subparagraph (A)(i) is the amount determined by the Board by multiplying the excess amount by the percentage arrived at by dividing—

"(i) the amount of capital stock of the Financing Corporation held by such remaining bank at the time of such determination; by

"(ii) the aggregate amount of such stock held by all remaining banks at such time.

"(C) PURCHASE PROCEDURE.—The bank on whose behalf an investment in capital stock is made under subparagraph (A)(i) shall purchase, annually and at the issuance price, from each remaining bank an amount of such stock determined by the Board by multiplying the amount available for such purchases (at the time of such determination) by the percentage determined under subparagraph (B) with respect to such remaining bank until the aggregate amount of such capital stock has been purchased by the bank.

"(D) LIMITATION ON DIVIDENDS.—The amount of dividends which may be paid for any year by a bank on whose behalf an investment is made under subparagraph (A)(i) shall not exceed an amount equal to ½ of the net earnings available for dividends of the bank for the year.

"(E) TRANSFER TO ACCOUNT FOR PURCHASE OF STOCK REQUIRED.—Of the net earnings available for dividends for any year of a bank on whose behalf an investment is made under subparagraph (A)(i), such amount as is necessary to make the purchases of stock required under subparagraph (A)(ii) shall be placed in a reserve account (established in such manner as the Board shall prescribe by regulations) the balance in which shall be available only for such purchases.

"(F) NET EARNINGS AVAILABLE FOR DIVIDENDS DEFINED.—For purposes of this paragraph, the term 'net earnings available for dividends' means the net earnings of a bank for any period as computed after reducing the amount of earnings for such period by the amount required to be carried (for such period) to reserves maintained by such bank pursuant to the first two sentences of section 16 of this Act.

12 USC 1436.

"(7) UNDIVIDED PROFITS DEFINED.—For purposes of paragraph (3), the term 'undivided profits' means retained earnings minus the sum of—

"(A) that portion required to be added to reserves maintained pursuant to the first two sentences of section 16 of this Act; and

"(B) the dollar amounts held by the respective Federal Home Loan Banks in special dividend stabilization reserves on December 31, 1985, as determined under the following table:

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"Bank	Dollar amount
Federal Home Loan Bank of Boston	$3.2 million
Federal Home Loan Bank of New York	7.7 million
Federal Home Loan Bank of Pittsburgh	5.2 million
Federal Home Loan Bank of Atlanta	12.3 million
Federal Home Loan Bank of Cincinnati	5.9 million
Federal Home Loan Bank of Indianapolis	37.4 million
Federal Home Loan Bank of Chicago	6.0 million
Federal Home Loan Bank of Des Moines	32.7 million
Federal Home Loan Bank of Dallas	45.0 million
Federal Home Loan Bank of Topeka	13.7 million
Federal Home Loan Bank of San Francisco	21.9 million
Federal Home Loan Bank of Seattle	33.6 million

"(e) OBLIGATIONS OF THE FINANCING CORPORATION.—

"(1) LIMITATION ON AMOUNT OF OUTSTANDING OBLIGATIONS.—The aggregate amount of obligations of the Financing Corporation which may be outstanding at any time (as determined by the Board) shall not exceed the lesser of—

"(A) an amount equal to the greater of—

"(i) 5 times the amount of the nonvoting capital stock of the Financing Corporation which is outstanding at such time; or

"(ii) the sum of the face amounts (the amount of principal payable at maturity) of securities described in subsection (g)(2) which are held at such time in the segregated account established pursuant to such subsection; or

"(B) $10,825,000,000.

"(2) ANNUAL LIMITATION ON NET NEW BORROWING.—Net new borrowing by the Financing Corporation—

"(A) shall not exceed an amount equal to $3,750,000,000 in the 1-year period beginning on the date of the enactment of the Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987; and

"(B) shall not exceed an amount equal to $3,750,000,000 in each 1-year period beginning after the 1-year period described in subparagraph (A).

"(3) NET PROCEEDS TO BE INVESTED IN CAPITAL OF FSLIC.—Subject to such terms and conditions as may be approved by the Board, the net proceeds of any obligation issued by the Financing Corporation shall be used to—

"(A) purchase capital certificates or capital stock issued by the Federal Savings and Loan Insurance Corporation under section 402(b)(1)(A) of the National Housing Act; or *Post*, p. 597.

"(B) refund any previously issued obligation the net proceeds of which were invested in the manner described in subparagraph (A).

"(4) LIMITATION ON TERM OF OBLIGATIONS.—No obligation of the Financing Corporation may be issued which matures—

"(A) more than 30 years after the date of issue; or

"(B) after December 31, 2026.

"(5) INVESTMENT OF UNITED STATES FUNDS IN OBLIGATIONS.—Obligations issued under this section by the Financing Corporation with the approval of the Board shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer of the United States.

"(6) MARKET FOR OBLIGATIONS.—All persons having the power to invest in, sell, underwrite, purchase for their own accounts, accept as security, or otherwise deal in obligations of the Fed-

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eral Home Loan Banks shall also have the power to do so with respect to obligations of the Financing Corporation.

"(7) NO FULL FAITH AND CREDIT OF THE UNITED STATES.—Obligations of the Financing Corporation and the interest payable on such obligations shall not be obligations of, or guaranteed as to principal or interest by, the Federal Home Loan Banks, the United States, or the Federal Savings and Loan Insurance Corporation and the obligations shall so plainly state.

"(8) TAX EXEMPT STATUS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), obligations of the Financing Corporation shall be exempt from tax both as to principal and interest to the same extent as any obligation of a Federal Home Loan Bank is exempt from tax under section 13.

12 USC 1433.

"(B) EXCEPTION.—The Financing Corporation, like the Federal Home Loan Banks, shall be treated as an agency of the United States for purposes of the first sentence of section 3124(b) of title 31, United States Code (relating to determination of tax status of interest on obligations).

"(9) OBLIGATIONS ARE EXEMPT SECURITIES.—Notwithstanding paragraph (7), obligations of the Financing Corporation shall be deemed to be exempt securities (within the meaning of laws administered by the Securities and Exchange Commission) to the same extent as securities which are direct obligations of the United States or are guaranteed as to principal or interest by the United States.

"(10) MINORITY PARTICIPATION IN PUBLIC OFFERINGS.—The Chairman of the Board and the Directorate shall ensure that minority owned or controlled commercial banks, investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public offering of obligations issued under this section.

"(f) ASSESSMENT AUTHORITY OF THE FINANCING CORPORATION.—

"(1) IN GENERAL.—The Financing Corporation may, with the approval of the Board, assess on each insured institution an assessment, except that the aggregate amount assessed under this paragraph on any insured institution for any year may not exceed an amount equal to 1/12th of 1 percent of the aggregate amount of all accounts of insured members of such insured institution.

"(2) SUPPLEMENTAL ASSESSMENT AUTHORIZED.—Upon the unanimous vote of the Directorate that additional funds are needed to pay the interest on the obligations of the Financing Corporation because no other funds are available, the Financing Corporation may, with the approval of the Board and in addition to any assessment assessed under paragraph (1), assess on each insured institution an assessment, except that the aggregate amount assessed under this paragraph on any insured institution for any year may not exceed an amount equal to 1/8th of 1 percent of the aggregate amount of all accounts of insured members of such insured institution.

"(3) TOTAL AMOUNT OF ASSESSMENTS MAY NOT EXCEED INTEREST AND FINANCING COSTS.—The aggregate amount of all assessments assessed under paragraphs (1) and (2) for any year may not exceed—

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"(A) the aggregate amount of—

"(i) issuance costs (as such term is defined in subsection (g)(5)(A)) incurred with respect to obligations issued during such year;

"(ii) interest paid on (and any redemption premium paid with respect to) obligations of the Financing Corporation during such year; and

"(iii) custodian fees (as such term is defined in subsection (g)(5)(B)) incurred during such year; minus

"(B) the aggregate amount of any payments under subsection (g)(4) during such year.

"(4) TERMINATION ASSESSMENTS.—

"(A) ASSESSMENT AUTHORIZED.—The Financing Corporation shall, with the approval of the Board, assess a termination assessment on any insured institution which ceases to be an insured institution.

"(B) MAXIMUM AMOUNT OF ASSESSMENT.—The amount of the assessment on any institution under subparagraph (A) shall be the amount which is equal to the sum of—

"(i) the amount which is equal to 2 times the last annual insurance premium payable by such institution under section 404(b) of the National Housing Act (including the amount of any assessment imposed under paragraph (1) of this subsection in lieu of any such premium); and

12 USC 1727.

"(ii) the amount which is the product of—

"(I) the aggregate amount of all accounts of insured members of such institution (as of the date the institution ceases to be an insured institution); and

"(II) 2 times the rate (expressed as an annual rate) at which the supplemental assessment under section 404(c) of the National Housing Act was assessed against insured institutions by the Federal Savings and Loan Insurance Corporation in 1986.

Post, p. 601.

"(C) REDUCTION IN ASSESSMENT ALLOWED FOR WEAKENED INSTITUTIONS.—The amount of any assessment which the Financing Corporation may otherwise impose under this paragraph on an institution (which ceases to be an insured institution) may be reduced by such amount as the Financing Corporation, with the approval of the Board, may deem appropriate when—

"(i) the institution poses a substantial risk to the assets of the Federal Savings and Loan Insurance Corporation; and

"(ii) such reduction is necessary to assist in the sale or other disposition of the institution.

"(D) TIME FOR PAYING ASSESSMENT.—

"(i) DUE WITHIN 30 DAYS.—If an assessment is imposed on an institution under subparagraph (A), the institution shall be obligated to pay such assessment before the end of the 30-day period beginning on the date on which such institution ceases to be an insured institution.

"(ii) SEMIANNUAL INSTALLMENTS WITH INTEREST.—Notwithstanding the requirement of clause (i), an institution may elect to pay the amount of any assessment imposed under subparagraph (A) in semiannual installments during the period beginning no later than the end of the 30-day period referred to in clause (i) and ending no later than the end of the 2-year period beginning on the date such assessment is imposed, together with interest accruing on the unpaid balance of such amount at a variable rate equal to the sum of—

101 STAT. 593

"(I) the bond equivalent yield on 6-month United States Treasury bills; and

"(II) 100 basis points.

"(E) EXIT FEE EQUALIZATION.—If any institution described in subparagraph (F) paid any exit fee, or the equivalent thereof (as determined by the Corporation), on or before the date of the enactment of the Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987, the Corporation shall repay to such institution an amount

equal to the amount by which the amount of such fee exceeds the amount which such institution would be required to pay if the amount of such fee were determined under this paragraph as of the date of the enactment of this Act.

"(F) PROVISIONS APPLICABLE TO CERTAIN INSTITUTIONS.—Except as provided in subparagraph (E), no assessment under this paragraph or insurance premium under section 407(d) of the National Housing Act may be imposed on an insured institution which, on or before March 31, 1987, had—

Post, p. 602.

"(i) its status as an insured institution terminated voluntarily, involuntarily, or by operation of law in connection with a conversion into, merger with, acquisition by, consolidation with, reorganization into, or combination by any means with, an institution the deposits of which are insured by the Federal Deposit Insurance Corporation;

"(ii) filed an application or notice with any State banking agency or authority, or with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Corporation or the Federal Home Loan Bank Board pursuant to a transaction which, upon consummation thereof, will result in the termination of the institution's status as an insured institution in connection with its conversion into, merger with, acquisition by, consolidation with, reorganization into, or combination by any means with, an institution the deposits of which are insured by the Federal Deposit Insurance Corporation; or

"(iii) entered into a letter of intent or a written memorandum of understanding, pursuant to a transaction which will result in the termination of the institution's status as an insured institution in connection with its conversion into, merger with, acquisition by consolidation with, reorganization into, or combination by any means with, an institution the deposits of which are insured by the Federal Deposit Insurance Corporation.

101 STAT. 594

Michigan.

"(G) ADDITIONAL PROVISION.—Notwithstanding any other provision of law, the Federal Savings and Loan Insurance Corporation shall repay to Comerica, Inc. of Detroit, Michigan, an amount equal to any exit fee or equivalent thereof paid by Comerica, Inc.

"(5) PAYMENT TO FINANCING CORPORATION.—All assessments assessed by the Financing Corporation under paragraph (1), (2), or (4) shall be paid to the Financing Corporation.

"(g) USE AND DISPOSITION OF ASSETS OF THE FINANCING CORPORATION NOT INVESTED IN FSLIC.—

"(1) IN GENERAL.—Subject to such regulations, restrictions, and limitations as may be prescribed by the Board, assets of the Financing Corporation, which are not invested in capital certificates or capital stock issued by the Federal Savings and Loan Insurance Corporation under section 402(b)(1)(A) of the National Housing Act, shall be invested in—

Post, p. 597.

"(A) direct obligations of the United States;

"(B) obligations, participations, or other instruments of, or issued by, the Federal National Mortgage Association or the Government National Mortgage Association;

"(C) mortgages, obligations, or other securities for sale by, or which have been disposed of by, the Federal Home Loan Mortgage Corporation under section 305 or 306 of the Federal Home Loan Mortgage Corporation Act; or

12 USC 1454, 1455.

"(D) any other security in which it is lawful for fiduciary

and trust funds to be invested under the laws of any State.

"(2) SEGREGATED ACCOUNT FOR ZERO COUPON INSTRUMENTS HELD TO ASSURE PAYMENT OF PRINCIPAL.—The Financing Corporation shall invest in, and hold in a segregated account, noninterest bearing instruments—

"(A) which are securities described in paragraph (1); and

"(B) the total of the face amounts (the amount of principal payable at maturity) of which is approximately equal to the aggregate amount of principal on the obligations of the Financing Corporation,

to assure the repayment of principal on obligations of the Financing Corporation.

"(3) DOLLAR AMOUNT LIMITATION ON INVESTMENT IN ZERO COUPON INSTRUMENTS FOR SEGREGATED ACCOUNT.—The aggregate amount invested by the Financing Corporation under paragraph (2) shall not exceed $2,200,000,000 (as determined on the basis of the purchase price).

"(4) EXCEPTION FOR PAYMENT OF ISSUANCE COSTS, INTEREST, AND CUSTODIAN FEES.—Notwithstanding the requirements of paragraph (1), the assets of the Financing Corporation referred to in paragraph (1) which are not invested under paragraph (2) may be used to pay—

"(A) issuance costs;

"(B) any interest on (and any redemption premium with respect to) any obligation of the Financing Corporation; and

"(C) custodian fees.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) ISSUANCE COSTS.—The term 'issuance costs'—

"(i) means issuance fees and commissions incurred by the Financing Corporation in connection with the issuance or servicing of any obligation of the Financing Corporation; and 101 STAT. 595

"(ii) includes legal and accounting expenses, trustee and fiscal and paying agent charges, costs incurred in connection with preparing and printing offering materials, and advertising expenses, to the extent that any such cost or expense is incurred by the Financing Corporation in connection with issuing any obligation.

"(B) CUSTODIAN FEES.—The term 'custodian fee' means—

"(i) any fee incurred by the Financing Corporation in connection with the transfer of any security to, or the maintenance of any security in, the segregated account established under paragraph (2); and

"(ii) any other expense incurred by the Financing Corporation in connection with the establishment or maintenance of such account.

"(h) MISCELLANEOUS PROVISIONS RELATING TO FINANCING CORPORATION.—

"(1) TREATMENT FOR CERTAIN PURPOSES.—Except as provided in subsection (e)(8)(B), the Financing Corporation shall be treated as a Federal Home Loan Bank for purposes of sections 13 and 23. 12 USC 1433, 1443.

"(2) FEDERAL RESERVE BANKS AS DEPOSITARIES AND FISCAL AGENTS.—The Federal Reserve banks are authorized to act as depositaries for or fiscal agents or custodians of the Financing Corporation.

"(3) APPLICABILITY OF CERTAIN PROVISIONS RELATING TO GOVERNMENT CORPORATION.—Notwithstanding the fact that no Government funds may be invested in the Financing Corporation, the Financing Corporation shall be treated, for purposes of sections 9105, 9107, and 9108 of title 31, United States Code, as a mixed-ownership Government corporation which has capital of the Government.

"(i) FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION INDUSTRY ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—There is hereby established the Federal Savings and Loan Insurance Corporation Industry Advisory Committee (hereinafter in this subsection referred to as the 'Committee').

"(2) MEMBERSHIP.—

"(A) APPOINTMENT.—The Committee shall consist of 13 members selected as follows:

"(i) 1 member appointed by the Chairman of the Board from among individuals who are officers of insured institutions and who are not members of the Board or employees of the Board, the Federal Savings and Loan Insurance Corporation, or the Board of Directors of any Federal Home Loan Bank.

"(ii) 1 member elected from each Federal Home Loan Bank district (by the members of the Board of Directors of each such bank who were elected by the members of such bank) from among individuals who are officers of insured institutions.

"(B) TERMS.—Members shall be appointed or elected for terms of 1 year.

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"(C) CHAIRPERSON.—The member appointed under subparagraph (A)(i) shall be the chairperson of the Committee.

"(D) VACANCIES.—Any vacancy on the Committee shall be filled in the manner in which the original appointment was made.

"(E) PAY AND EXPENSES.—Members of the Committee shall serve without pay but each member of the Committee shall be reimbursed, in such manner as the Board may prescribe by regulation, by the Federal Home Loan Bank which elected such member (and, in the case of the member appointed by the Chairman of the Board, by the Board) for expenses incurred in connection with attendance of such members at meetings of the Committee.

"(F) MEETINGS.—The Committee shall meet from time to time at the call of the chairperson or a majority of the members.

Reports.

"(3) DUTIES OF THE COMMITTEE.—The duties of the Committee are as follows:

"(A) To review the reports and budgets prepared pursuant to section 402(k) of the National Housing Act and any other matter which the Board may present for the Committee's consideration.

Post, p. 603.

"(B) To confer with the Board on the reports, budgets, and other matters reviewed under subparagraph (A).

"(C) To prepare written comments and recommendations for the Board and the Federal Savings and Loan Insurance Corporation with respect to the reports, budgets, and other matters reviewed under subparagraph (A) (which shall be submitted to the Board in a timely manner after each meeting).

"(4) ANNUAL REPORT.—

"(A) REQUIRED.—Not later than January 15 of each year, the Committee shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(B) CONTENTS.—The report required under subparagraph (A) shall describe the activities of the Committee during the preceding year and the reports and recommendations made by the Committee to the Board and

the Federal Savings and Loan Insurance Corporation during such year.

"(5) REGULATIONS.—The Board shall prescribe such regulations as the Board determines to be appropriate to avoid conflicts of interest with respect to the disclosure to and use by members of the Committee of information relating to the Board, the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Banks, and the Federal Asset Disposition Association.

"(6) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply to the Committee. 5 USC app.

"(7) TERMINATION.—The Committee shall terminate when the Financing Corporation terminates under subsection (j).

"(j) TERMINATION OF THE FINANCING CORPORATION.— 101 STAT. 597

"(1) IN GENERAL.—The Financing Corporation shall be dissolved, as soon as practicable, after the earlier of—

"(A) the date by which all stock purchased by the Financing Corporation in the Federal Savings and Loan Insurance Corporation has been retired; or

"(B) December 31, 2026.

"(2) BOARD AUTHORITY TO CONCLUDE THE AFFAIRS OF FINANCING CORPORATION.—Effective on the date of the dissolution of the Financing Corporation under paragraph (1), the Board may exercise, on behalf of the Financing Corporation, any power of the Financing Corporation which the Board determines to be necessary to settle and conclude the affairs of the Financing Corporation.

"(k) REGULATIONS.—The Board may prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations defining terms used in this section.

"(l) DEFINITIONS.—For purposes of this section—

"(1) INSURED INSTITUTION.—The term 'insured institution' has the meaning given to such term by section 401(a) of the National Housing Act. 12 USC 1724.

"(2) INSURED MEMBER.—The term 'insured member' has the meaning given to such term by section 401(b) of the National Housing Act.

"(3) DIRECTORATE.—The term 'Directorate' means the directorate established in the manner provided in subsection (b)(1) to manage the Financing Corporation.".

SEC. 303. MIXED OWNERSHIP GOVERNMENT CORPORATION.

Section 9101(2) of title 31, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(K) The Financing Corporation.".

SEC. 304. RECAPITALIZATION OF FSLIC.

Section 402(b) of the National Housing Act (12 U.S.C. 1725(b)) is amended to read as follows:

"(b) ISSUANCE AND SALE OF CAPITAL CERTIFICATES AND STOCK TO FINANCING CORPORATION.—

"(1) AUTHORIZATION TO ISSUE.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, the Corporation may issue—

"(i) nonredeemable capital certificates; and

"(ii) redeemable nonvoting capital stock.

"(B) REQUIREMENT RELATING TO AMOUNT OF STOCK.—The aggregate amount of stock issued by the Corporation under subparagraph (A)(ii) shall be equal to the aggregate amount of the investments made by the Federal Home Loan Banks in the capital stock of the Financing Corporation under section 21 of the Federal Home Loan Bank Act. *Ante*, p. 585.

"(C) CERTIFICATES AND STOCK MAY BE SOLD ONLY TO FINANCING CORPORATION.—Capital certificates and stock

issued under subparagraph (A) may be sold only to the Financing Corporation in the manner and to the extent provided in section 21 of the Federal Home Loan Bank Act and this subsection.

"(D) PROCEEDS OF SALE ARE PART OF PRIMARY RESERVE.—The proceeds of any sale of capital certificates or stock under this paragraph shall be considered part of the primary reserve established by the Corporation pursuant to section 404(a).

101 STAT. 598

12 USC 1727.

"(E) NO DIVIDENDS.—The Corporation shall pay no dividends on any capital certificates or stock issued under this paragraph.

"(2) EQUITY RETURN ACCOUNT.—

"(A) IN GENERAL.—The Corporation shall establish and maintain (until all capital stock issued under subparagraph (A)(ii) of paragraph (1) has been paid off and retired) an equity return account—

"(i) which shall consist only of amounts contributed in accordance with the requirements of subparagraph (B);

"(ii) which shall not be treated as reserves of the Corporation; and

"(iii) the earnings accruing in which shall be transferred in the manner provided in subparagraph (D).

"(B) CONTRIBUTIONS TO ACCOUNT.—

"(i) NO CONTRIBUTION IF RESERVES-TO-ACCOUNTS RATIO IS LESS THAN 0.5 PERCENT.—No contribution shall be made to the equity reserve account established pursuant to subparagraph (A) in any year in which the reserves-to-accounts ratio is less than 0.5 percent.

"(ii) ANNUAL CONTRIBUTIONS REQUIRED.—Except as provided in clause (i), the Corporation shall make contributions to the equity reserve account established pursuant to subparagraph (A)—

"(I) at the end of each year beginning after 1996 through the final payoff year (as defined in clause (vii)); and

"(II) in amounts determined under clauses (iii), (iv), (v), and (vi) of this subparagraph.

"(iii) AMOUNT OF PRIMARY CONTRIBUTION.—The primary contribution to the equity return account for any year for which a contribution is required to be made shall be the amount determined by dividing—

"(I) the aggregate amount of capital stock issued by the Corporation and purchased by the Financing Corporation under paragraph (1)(A); by

"(II) the number of years between the first year beginning after 1996 in which the reserves-to-accounts ratio is equal to or greater than 0.5 percent and the final payoff year (taking into account the first and last year described).

"(iv) AMOUNT OF ADDITIONAL CONTRIBUTION ALLOWED IF RESERVES-TO-ACCOUNTS RATIO DOES NOT EXCEED 1.25 PERCENT.—In any year in which the reserves-to-accounts ratio is equal to or greater than 1 percent but less than 1.25 percent, the Federal Home Loan Bank Board may require the Corporation to make an additional contribution of an amount not to exceed the amount determined by dividing—

"(I) the investment return amount (as defined in clause (viii)) computed at an annual compound rate not to exceed 6 percent; by

"(II) the number of years between the first year beginning after 1996 in which the reserves-to-

accounts ratio was equal to or greater than 1 percent and the final payoff year (taking into account the first and last year described). 101 STAT. 599

"(v) AMOUNT OF ADDITIONAL CONTRIBUTION ALLOWED IF RESERVES-TO-ACCOUNTS RATIO DOES NOT EXCEED 1.75 PERCENT.—In any year in which the reserves-to-accounts ratio is equal to or greater than 1.25 percent but less than 1.75 percent, the Federal Home Loan Bank Board may require the Corporation to make an additional contribution of an amount not to exceed the amount determined by dividing—

"(I) the investment return amount computed at an annual compound rate not to exceed 8 percent, minus the sum of any amounts contributed under clause (iv); by

"(II) the number of years between the first year beginning after 1996 in which the reserves-to-accounts ratio was equal to or greater than 1.25 percent and the final payoff year (taking into account the first and last year described).

"(vi) AMOUNT OF ADDITIONAL CONTRIBUTION ALLOWED IF RESERVES-TO-ACCOUNTS RATIO EXCEEDS 1.75 PERCENT.—In any year in which the reserves-to-accounts ratio is equal to or greater than 1.75 percent, the Federal Home Loan Bank Board may require the Corporation to make an additional contribution of an amount not to exceed the amount determined by dividing—

"(I) the investment return amount computed at an annual compound rate not to exceed 10 percent, minus the sum of any amounts contributed under clause (iv) or (v); by

"(II) the number of years between the first year beginning after 1996 in which the reserves-to-accounts ratio was equal to or greater than 1.75 percent and the final payoff year (taking into account the first and last year described).

"(vii) FINAL PAYOFF YEAR DEFINED.—For purposes of this subparagraph, the term 'final payoff year' means the year of maturity of the last maturing obligation of the Financing Corporation (which was issued under section 21 of the Federal Home Loan Bank Act and matures before January 1, 2027). *Ante*, p. 585.

"(viii) INVESTMENT RETURN AMOUNT.—For purposes of clauses (iv), (v), and (vi), the term 'investment return amount' means the amount which would be realized on the aggregate amount invested by the Financing Corporation in capital stock issued by the Corporation under paragraph (1) over the period of the investment if the return on the investment is computed at the rate described in subclause (I) of the respective clauses.

"(C) INVESTMENT OF AMOUNTS IN ACCOUNT.—Amounts accumulating in the equity return account may be invested in such manner as the Corporation determines.

"(D) TRANSFER OF EARNINGS TO PRIMARY RESERVE.—Earnings accruing on any investment (under subparagraph (C)) of amounts in the equity return account shall be transferred to the primary reserve account of the Corporation 101 STAT. 600
established pursuant to section 404(a) as such earnings are 12 USC 1727.
realized by the Corporation and shall not be treated as amounts in the account.

"(E) RETIREMENT OF CAPITAL STOCK USING BALANCE IN ACCOUNT.—Upon maturity of all obligations of the Financing Corporation under section 21 of the Federal Home Loan Bank Act, the Corporation shall pay off and retire any *Ante*, p. 585.
capital stock issued under paragraph (1)(A)(ii) using only amounts accumulated in the equity return account.

"(F) RESERVES-TO-ACCOUNTS RATIO DEFINED.—For purposes of this paragraph, the term 'reserves-to-accounts ratio' means, with respect to any year, the amount determined by dividing—

"(i) the amount of reserves of the Corporation (determined as of December 31 of the preceding year); by

"(ii) the aggregate amount of all accounts of all of its insured members (determined as of such date).

"(3) FINANCING CORPORATION DEFINED.—For purposes of this subsection, the term 'Financing Corporation' means the Financing Corporation established under section 21 of the Federal Home Loan Bank Act.

"(4) NO REDUCTION OR SUSPENSION OF INSURANCE PREMIUMS WHILE STOCK IS OUTSTANDING.—Notwithstanding any other provision of law, the provisions of subsections (b)(2) and (g) of section 404 shall not apply as long as any share of capital stock issued under paragraph (1)(A)(ii) is outstanding.".

12 USC 1727.

SEC. 305. FSLIC AUTHORITY TO CHARGE PREMIUMS REDUCED BY AMOUNT OF FINANCING CORPORATION ASSESSMENTS.

Section 404 of the National Housing Act is amended by adding at the end thereof the following new subsection:

"(j) AUTHORITY TO CHARGE PREMIUMS REDUCED BY AMOUNT OF FINANCING CORPORATION ASSESSMENTS.—Notwithstanding any other provision of this section, the sum of—

"(1) the amount of any premium required to be paid by any insured institution under subsection (b)(1); and

"(2) the amount of any premium authorized to be assessed by the Corporation under subsection (c) with respect to such institution,

for any period shall be reduced by the amount of any assessment paid for such period by such insured institution to the Financing Corporation pursuant to section 21(f) of the Federal Home Loan Bank Act.".

SEC. 306. MISCELLANEOUS PROVISIONS.

(a) FEDERAL HOME LOAN BANK DIVIDENDS.—Section 16 of the Federal Home Loan Bank Act (12 U.S.C. 1436) is amended by adding at the end thereof the following new subsection:

"(c) EXCEPTION IN CASE OF LOSSES IN CONNECTION WITH FINANCING CORPORATION STOCK.—

"(1) IN GENERAL.—Notwithstanding subsection (a) of this section, if—

"(A) a Federal Home Loan Bank incurs a chargeoff or an expense in connection with such bank's investment in the stock of the Financing Corporation under section 21;

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"(B) the Board determines there is an extraordinary need for the member institutions of the bank to receive dividends; and

"(C) the bank has reduced all reserves (other than the reserve account required by the first 2 sentences of subsection (a)) to zero,

the Board may authorize such bank to declare and pay dividends out of undivided profits (as such term is defined in section 21(d)(7)) or the reserve account required by the first 2 sentences of subsection (a).

Ante, p. 585.

"(2) REQUIREMENTS OF SECTION 21 NOT AFFECTED.—Notwithstanding any payment of dividends by any Federal Home Loan Bank pursuant to an authorization by the Board under paragraph (1), the applicable provisions of section 21 shall continue to apply with respect to such bank, and to such bank's investment in the Financing Corporation, in the same manner and to the same extent as if such payment had not been made.".

(b) CONFORMING AMENDMENT.—Section 402(h) of the National Housing Act (12 U.S.C. 1725(h)) is amended—

(1) by striking out "After the effective date" and inserting in lieu thereof "(1) After the effective date"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The first three sentences of paragraph (1) shall not apply to stock issued by the Corporation to the Financing Corporation under subsection (b)(1)(A).".

(c) LIMITATION ON SPECIAL ASSESSMENT.—Section 404(c) of the National Housing Act (12 U.S.C. 1727(c)) is amended—

(1) by striking out "(c) The Corporation" and inserting in lieu thereof "(c)(1) SPECIAL ASSESSMENT.—Subject to paragraph (2), the Corporation"; and

(2) by adding at the end thereof the following new paragraph:

"(2) LIMITATIONS ON AMOUNT OF ASSESSMENT.—The amount of any additional premium assessed by the Corporation against any insured institution under paragraph (1) in any of the following years shall not exceed the amount listed in connection with each such year in the following table (unless the Federal Home Loan Board determines that severe pressures on the Corporation exist which necessitate an infusion of additional funds):

"For year:	The amount of the additional premium may not exceed:
1987	5/8 of 1 percent of the total amount of the accounts of the insured members of such institution;
1988	1/12 of 1 percent of the total amount of the accounts of the insured members of such institution;
1989	1/16 of 1 percent of the total amount of the accounts of the insured members of such institution;
1990	1/24 of 1 percent of the total amount of the accounts of the insured members of such institution;
1991	1/48 of 1 percent of the total amount of the accounts of the insured members of such institution.".

(d) PRIORITY OF SECURED INTERESTS.—Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by adding at the end thereof the following new subsection: 101 STAT. 602

"(e) PRIORITY OF CERTAIN SECURED INTERESTS.—Notwithstanding any other provision of law, any security interest granted to a Federal Home Loan Bank by any member of any Federal Home Loan Bank or any affiliate of any such member shall be entitled to priority over the claims and rights of any party (including any receiver, conservator, trustee, or similar party having rights of a lien creditor) other than claims and rights that—

"(1) would be entitled to priority under otherwise applicable law; and

"(2) are held by actual bona fide purchasers for value or by actual secured parties that are secured by actual perfected security interests.".

(e) COORDINATION OF TERMINATION ASSESSMENT WITH FINAL INSURANCE PREMIUM.—Section 407(d) of the National Housing Act (12 U.S.C. 1730(d)) is amended—

(1) by striking out "(d)" and inserting in lieu thereof "(d)(1) FINAL INSURANCE PREMIUM"; and

(2) by adding at the end thereof the following new paragraph:

"(2) EXCEPTION RELATING TO FINAL INSURANCE PREMIUM.—If an institution (whose status as an insured institution is terminated) pays an assessment to the Financing Corporation under section 21(f)(4) of the Federal Home Loan Bank Act with respect to such termination, the institution shall not be obligated to pay the final insurance premium described in the third sentence of paragraph (1).". *Ante*, p. 585.

(f) SECTION 404(f) DOES NOT APPLY TO INSTITUTIONS WHICH CEASE TO BE FSLIC INSURED.—Section 404(f) of the National Housing Act (12 U.S.C. 1727(f)) is amended—

(1) by striking out "(f) If" and inserting in lieu thereof "(f)(1) PRO RATA DISTRIBUTION ON TERMINATION OF INSURED STATUS.—If"; and

(2) by adding at the end thereof the following new paragraph:

"(2) EXCEPTION.—In the case of an institution which—

"(A) ceases to be an insured institution; and

"(B) is required to pay an assessment to the Financing Corporation under section 21(f)(4) of the Federal Home Loan Bank Act with respect to the termination of such insured status,

paragraph (1), the last sentence of subsection (e)(1), and subsection (i)(4) shall not apply with respect to such institution.".

(g) SECONDARY RESERVE.—Section 404 of the National Housing Act (12 U.S.C. 1727) is amended by striking out subsection (h).

12 USC 1730 note.

(h) 1-YEAR PROHIBITION ON TERMINATION OF FSLIC INSURED STATUS.—

(1) IN GENERAL.—No association or insured institution may take any action which would result in the voluntary termination of its status as an insured institution during the 1-year period beginning on the date of the enactment of this Act.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to any association or institution described in section 21(f)(4)(F) of the Federal Home Loan Bank Act (as added by section 302 of this title).

(3) AUTHORITY OF FSLIC TO ARRANGE EMERGENCY ACQUISITIONS NOT AFFECTED.—Paragraph (1) shall not affect the authority of the Federal Savings and Loan Insurance Corporation to arrange for the acquisition of an association or insured institution under section 406(f) or 408(m) of the National Housing Act.

12 USC 1729, 1730a.

(4) DEFINITIONS.—For purposes of this subsection—

101 STAT. 603

(A) ASSOCIATION.—The term "association" has the meaning given to such term under section 2(d) of the Home Owners' Loan Act of 1933.

12 USC 1462.

(B) INSURED INSTITUTION.—The term "insured institution" has the meaning given to such term in section 401(a) of the National Housing Act.

12 USC 1724.

(i) FSLIC REPORT REQUIREMENTS.—Section 402 of the National Housing Act is amended by adding at the end thereof the following new subsection:

12 USC 1725.

"(k) REPORTS AND BUDGETS REQUIRED.—

"(1) QUARTERLY REPORTS AND BUDGETS.—Before the end of the 2-week period beginning on the first day of each calendar quarter, the Corporation shall complete a detailed written report and budget describing and explaining—

"(A) planned or anticipated activities and estimates of receipts and expenditures for such calendar quarter; and

"(B) the activities, receipts, and expenditures for the preceding calendar quarter.

"(2) SEMIANNUAL REPORT.—Before the end of the 30-day period beginning on the first day of each semiannual period, the Corporation shall complete a detailed written report and budget describing and explaining the activities, receipts, and expenditures for the preceding semiannual period.

"(3) SUBMISSION OF SEMIANNUAL REPORT TO CONGRESS.—The Corporation shall submit a copy of each semiannual report required under paragraph (2) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(4) ACTIVITIES, ETC., OF FEDERAL ASSET DISPOSITION ASSOCIATION.—Activities, receipts, and expenditures of the Federal Asset Disposition Association (or any successor thereto) shall be included in any report or budget required under this subsection.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) ACTIVITIES.—The term 'activities' includes any activity engaged in with respect to any insured institution in financial difficulty.

"(B) SEMIANNUAL PERIOD.—The term 'semiannual period' means—

"(i) the period beginning on January 1 of any calendar year and ending June 30 of such year; and

"(ii) the period beginning on July 1 of any calendar year and ending December 31 of such year.".

SEC. 307. SECONDARY RESERVE PROVISIONS.

(a) OFFSETS AGAINST PREMIUMS AUTHORIZED.—Section 404(e) of the National Housing Act (12 U.S.C. 1727(e)) is amended—

(1) by striking out "(e) The Corporation" and inserting in lieu thereof "(e)(1) The Corporation"; and

(2) by adding at the end thereof the following new paragraph:

"(2) SECONDARY RESERVE OFFSETS AGAINST PREMIUMS.—

"(A) OFFSETS IN PREMIUM YEARS BEGINNING BEFORE 1993.—Subject to the maximum amount limitation contained in subparagraph (B) and notwithstanding any other provision of law, an insured institution may offset such institution's pro rata share of the statutorily prescribed amount against any pre- 101 STAT. 604
mium assessed against such insured institution under subsection (c) for any premium year beginning after 1987 and before 1993.

"(B) ANNUAL MAXIMUM AMOUNT LIMITATION.—The amount of any offset allowed for any insured institution under subparagraph (A) for any premium year referred to in subparagraph (A) shall not exceed an amount which is equal to 20 percent of such institution's pro rata share of the statutorily prescribed amount (as computed for the calendar year in which such premium year begins).

"(C) OFFSETS IN PREMIUM YEARS BEGINNING AFTER 1992.—Notwithstanding any other provision of law, an insured institution may offset such institution's pro rata share of the statutorily prescribed amount against any premium assessed against such insured institution under this section for any premium year beginning after 1992.

"(D) STATUTORILY PRESCRIBED AMOUNT DEFINED.—For purposes of this paragraph, the term 'statutorily prescribed amount' means—

"(i) with respect to calendar year 1988, the sum of $823,705,000; and

"(ii) with respect to any calendar year beginning after 1988, the sum contained in clause (i) minus the aggregate amount of offsets made by all insured institutions before the beginning of the calendar year for which such computation is being made.

"(E) INSURED INSTITUTION'S PRO RATA AMOUNT.—For purposes of this paragraph, an insured institution's pro rata share of the statutorily prescribed amount is the percentage which is equal to such institution's pro rata share of the secondary reserve as determined under this subsection on the day before the date on which the Corporation ceased to recognize the secondary reserve.

"(F) PREMIUM YEAR DEFINED.—For purposes of this paragraph, the term 'premium year' means, with respect to any insured institution, the 1-year period for which a premium is assessed against such insured institution under subsection (b) or (c).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 404(d)(1) of the National Housing Act (12 U.S.C. 1727(d)) is amended—

(A) by striking out the second sentence of subparagraph (A);

(B) by striking out paragraph (B); and

(C) by striking out "(1)(A)" and inserting in lieu thereof "(1)".

(2) Section 404(g) of the National Housing Act (12 U.S.C. 1727(g)) is amended by striking out the second sentence.

Thrift Industry Recovery Act.

TITLE IV—THRIFT INDUSTRY RECOVERY PROVISIONS

12 USC 226 note.

SEC. 401. SHORT TITLE.

101 STAT. 605

This title may be cited as the "Thrift Industry Recovery Act".

SEC. 402. THRIFT INSTITUTION ACCOUNTING, APPRAISAL, AND RESERVE STANDARDS.

12 USC 1468.

(a) FEDERALLY CHARTERED THRIFTS.—The Home Owners' Loan Act of 1933 (12 U.S.C. 1461 et seq.) is amended by redesignating section 9 as section 11 and by inserting after section 8 the following new section:

12 USC 1467.

"SEC. 9. ACCOUNTING PRINCIPLES AND OTHER STANDARDS AND REQUIREMENTS.

Regulations.

"(a) IN GENERAL.—The Board shall prescribe regulations which make the following provisions applicable to associations for regulatory purposes:

"(1) ASSET CLASSIFICATION SYSTEM.—An asset classification system shall be established which is consistent with the asset classification system established by the Federal banking agencies, except that such system shall provide that the principal supervisory agent of the Board for each Federal home loan bank district may, in such agent's discretion—

"(A) require an association to create additional general loss reserves on the basis of an evaluation of such institution's assets; or

"(B) determine whether a restructured loan asset which is in a nonperforming status or with respect to which the borrowers have otherwise failed to remain in compliance with the repayment terms at the time of such restructuring shall be classified.

"(2) APPRAISAL STANDARD.—An appraisal standard shall be established which is consistent with the appraisal standard established by the Federal banking agencies.

Real property.

"(3) REAPPRAISAL UPON FORECLOSURE.—Generally accepted accounting principles shall apply to any reappraisal of the value of property securing any loan or other extension of credit upon any foreclosure on such property by an association (or any other action by the association in lieu of foreclosure).

"(4) AUTHORIZING USE OF FASB 15 FOR TROUBLED DEBT RESTRUCTURING.—If—

"(A) an association engages in troubled debt restructuring with respect to any loan by the association; and

"(B) the troubled debt restructuring complies with Statement of Financial Accounting Standards Numbered 5 and Statement of Financial Accounting Standards Numbered 15 (as issued by the Financial Accounting Standards Board),

regulatory accounting principles shall allow the association to account for the effects of the troubled debt restructuring and to account for such association's investment in the original debt instrument (or other agreement which is subject to such restructuring) in the manner provided in such statements.

"(5) CERTAIN LOAN LOSS RESERVES TREATED AS CAPITAL FOR CERTAIN PURPOSES.—Any amount which an association holds in any account as a general loss reserve may be treated, at the option of the association, as capital of the association for purposes of determining regulatory capital or regulatory net worth with respect to such association, to the extent such treatment is consistent with the procedures established by the Federal banking agencies.

"(b) UNIFORM GAAP ACCOUNTING STANDARDS REQUIRED.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the Board shall prescribe, by regulation, uniformly applicable accounting standards to be used by all associations for the purpose of determining compliance with any rule or regulation issued by the Board or the Federal Savings and Loan Insurance Corporation to the same degree that generally accepted accounting principles are used to determine compliance with rules and regulations of the Federal banking agencies. Regulations.

101 STAT. 606

"(2) EXCEPTION FOR CERTAIN INSTITUTIONS AND TRANSACTIONS.—Notwithstanding the requirement contained in paragraph (1)(A), the Board may suspend the application of any such standard with respect to any association or transaction if—

"(A) the application of such standard to an association and a company that controls such association would result in such association and company being treated differently than a bank and such bank's holding company considered on a consolidated basis; and

"(B) the transaction was consistent with generally accepted accounting principles when such transaction was completed.

"(c) ASSET EVALUATIONS.—The Board may not require an association to establish reserves against, or write down the value of, any asset in an amount in excess of the amount which would result from an evaluation of such asset which is consistent with generally accepted accounting principles, except that evaluations which are consistent with the practice of the Federal banking agencies may be used for supervisory purposes.

"(d) ACCOUNTING FOR SUBORDINATED DEBT AND GOODWILL.—No provision of this section shall affect the authority of the Board to authorize associations to utilize subordinated debt and goodwill in meeting reserve and other regulatory requirements.

"(e) LOSS DEFERRALS.—Notwithstanding any other provision of this section—

"(1) associations may continue, for purposes of determining regulatory net worth and capital, to defer and amortize gains and losses from the disposition of assets pursuant to regulations of the Board in effect before the enactment of the Thrift Industry Recovery Act; and

"(2) the use of such deferrals and amortizations, consistently with the regulations referred to in paragraph (1), shall not reduce the ability of an association to comply with any other rule issued or regulation prescribed by the Board.

"(f) FEDERAL BANKING AGENCY DEFINED.—For purposes of this section, the term 'Federal banking agency' means the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.".

(b) STATE CHARTERED, FEDERALLY INSURED THRIFTS.—Title IV of the National Housing Act (12 U.S.C. 1724 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 415. ACCOUNTING PRINCIPLES AND OTHER STANDARDS AND REQUIREMENTS. 12 USC 1730h.

"(a) IN GENERAL.—The Corporation shall prescribe regulations which make the following provisions applicable to insured institutions for regulatory purposes: Regulations.

101 STAT. 607

"(1) ASSET CLASSIFICATION SYSTEM.—An asset classification system shall be established which is consistent with the asset classification system established by the Federal banking agencies, except that such system shall provide the principal supervisory agent of the Federal Home Loan Bank Board for each Federal home loan bank district may, in such agent's discretion—

"(A) require an insured institution to create additional

general loss reserves on the basis of an evaluation of such institution's assets; or

"(B) determine whether a restructured loan asset which is in a nonperforming status or with respect to which the borrowers have otherwise failed to remain in compliance with the repayment terms at the time of such restructuring shall be classified.

"(2) APPRAISAL STANDARD.—An appraisal standard shall be established which is consistent with the appraisal standard established by the Federal banking agencies.

"(3) REAPPRAISAL UPON FORECLOSURE.—Generally accepted accounting principles shall apply to any reappraisal of the value of property securing any loan or other extension of credit upon any foreclosure on such property by an insured institution (or any other action by the insured institution in lieu of foreclosure).

"(4) AUTHORIZING USE OF FASB 15 FOR TROUBLED DEBT RESTRUCTURING.—If—

"(A) an insured institution engages in troubled debt restructuring with respect to any loan by the insured institution; and

"(B) the troubled debt restructuring complies with Statement of Financial Accounting Standards Numbered 5 and Statement of Financial Accounting Standards Numbered 15 (as issued by the Financial Accounting Standards Board),

regulatory accounting principles shall allow the insured institution to account for the effects of the troubled debt restructuring and to account for such insured institution's investment in the original debt instrument (or other agreement which is subject to such restructuring) in the manner provided in such statements.

"(5) CERTAIN LOAN LOSS RESERVES TREATED AS CAPITAL FOR CERTAIN PURPOSES.—Any amount which an insured institution holds in any account as a general loss reserve may be treated, at the option of the insured institution, as capital of the insured institution for purposes of determining regulatory capital or regulatory net worth with respect to such insured institution, to the extent such treatment is consistent with the procedures established by the Federal banking agencies.

"(b) UNIFORM GAAP ACCOUNTING STANDARDS REQUIRED.—

Regulations.

"(1) IN GENERAL.—Except as otherwise provided in this section, the Corporation shall prescribe, by regulation, uniformly applicable accounting standards to be used by all insured institutions for the purpose of determining compliance with any rule or regulation issued by the Corporation or the Federal Home Loan Bank Board to the same degree that generally accepted accounting principles are used to determine compliance with rules and regulations of the Federal banking agencies.

101 STAT. 608

"(2) EXCEPTION FOR CERTAIN INSTITUTIONS AND TRANSACTIONS.—Notwithstanding the requirement contained in paragraph (1)(A), the Corporation may suspend the application of any such standard with respect to any insured institution or any transaction if—

"(A) the application of such standard to an insured institution and a company that controls such insured institution would result in such insured institution and company being treated differently than a bank and such bank's holding company considered on a consolidated basis; and

"(B) the transaction was consistent with generally accepted accounting principles when such transaction was completed.

"(c) ASSET EVALUATIONS.—The Corporation may not require an insured institution to establish reserves against, or write down the value of, any asset in an amount in excess of the amount which

would result from an evaluation of such asset which is consistent with generally accepted accounting principles, except that evaluations which are consistent with the practice of the Federal banking agencies may be used for supervisory purposes.

"(d) ACCOUNTING FOR SUBORDINATED DEBT AND GOODWILL.—No provision of this section shall affect the authority of the Corporation to authorize insured institutions to utilize subordinated debt and goodwill in meeting reserve and other regulatory requirements.

"(e) LOSS DEFERRALS.—Notwithstanding any other provision of this section—

"(1) insured institutions may continue, for purposes of determining regulatory net worth and capital, to defer and amortize gains and losses from the disposition of assets pursuant to regulations of the Corporation in effect before the enactment of the Thrift Industry Recovery Act; and

"(2) the use of such deferrals and amortizations, consistently with the regulations referred to in paragraph (1), shall not reduce the ability of an insured institution to comply with any other rule issued or regulation prescribed by the Corporation.

"(f) FEDERAL BANKING AGENCY DEFINED.—For purposes of this section, the term 'Federal banking agency' means the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.".

(c) REPORT TO CONGRESS.—Not later than the end of the 90-day period beginning on the date of the enactment of this Act— 12 USC 1467 note.

(1) the Federal Home Loan Bank Board shall submit a copy of the proposed regulations required to be prescribed under the amendment made by subsection (a) to the Congress; and

(2) the Federal Savings and Loan Insurance Corporation shall submit a copy of the proposed regulations required to be prescribed under the amendment made by subsection (b) to the Congress.

(d) EFFECTIVE DATE OF REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), any regulation required to be prescribed under the amendment made by subsections (a) and (b) shall be implemented not later than the end of the 150-day period beginning on the date of the enactment of this Act. 12 USC 1467 note.

(2) UNIFORM GAAP ACCOUNTING STANDARDS.— 101 STAT. 609

(A) IN GENERAL.—Except as provided in subparagraph (B), the regulations required to be prescribed pursuant to subsection (b) of the amendments made by subsections (a) and (b) of this section shall take effect on December 31, 1987. Effective date.

(B) COMPLIANCE AT A LATER DATE.—If any association or insured institution demonstrates to the satisfaction of the Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation, as the case may be, that it is not feasible for such association or institution to achieve compliance with the regulations referred to in subparagraph (A) by the date contained in such subparagraph, the Board or Corporation may approve a plan submitted by an association or insured institution which allows such association or institution to comply with such regulations at a later date to the extent such later date is the earlier of—

(i) the date by which, in the determination of the Board or Corporation, it is feasible for such association or insured institution to achieve compliance with such regulations; or

(ii) December 31, 1993.

SEC. 403. AUDIT OF FEDERAL ASSET DISPOSITION ASSOCIATION.

Section 9105(a) of title 31, United States Code (relating to audits) is amended by inserting at the end thereof the following new paragraph:

"(3)(A) Notwithstanding any other provision of law and under such regulations as the Comptroller General may prescribe, the Comptroller General shall perform a financial audit of the Federal Asset Disposition Association on whatever basis the Comptroller General determines to be necessary.

"(B) The Federal Asset Disposition Association shall—

"(i) make available to the Comptroller General for audit all records and property of, or used or managed by, the Association which may be necessary for the audit; and

"(ii) provide the Comptroller General with facilities for verifying transactions with the balances or securities held by any depositary, fiscal agent, or custodian.

"(C) For purposes of this paragraph, the term 'Federal Asset Disposition Association' means the savings and loan association established by the Federal Savings and Loan Insurance Corporation under section 406 of the National Housing Act to manage and liquidate nonperforming assets on behalf of such Corporation in accordance with such section.".

12 USC 1729.

SEC. 404. THRIFT INDUSTRY RECOVERY REGULATIONS.

(a) FEDERALLY CHARTERED THRIFTS.—The Home Owners' Loan Act of 1933 (12 U.S.C. 1461 et seq.) is amended by adding after section 9 (as added by section 402(a) of this title) the following new section:

12 USC 1467a.

"SEC. 10. THRIFT INDUSTRY RECOVERY REGULATIONS.

"(a) IN GENERAL.—The Board shall prescribe capital recovery regulations for regulating and supervising troubled but well-managed and viable associations in a manner which will maximize the long-term viability of the thrift industry at the lowest cost to the Federal Savings and Loan Insurance Corporation.

101 STAT. 610

"(b) CAPITAL RECOVERY.—The regulations required to be prescribed under subsection (a) shall provide that an association with net worth of 0.5 percent or more, as determined in accordance with regulatory accounting principles, may be allowed to continue to operate and be eligible for capital forbearance if—

"(1) the Board determines that the association's weak capital condition is—

Minorities.

"(A) primarily the result of losses recognized on, the nonperforming status of, or the failure of borrowers to otherwise remain in compliance with the repayment terms of, loans, or participations in loans, the value of the collateral for which has been adversely affected by economic conditions in a designated economically depressed region; or

"(B) primarily the result of losses recognized on, the nonperforming status of, or the failure of borrowers to otherwise remain in compliance with the repayment terms of, loans, or participation in loans, made by a minority association 50 percent or more of whose loan assets are minority loans and 50 percent or more of whose originated loans are construction or permanent loans for 1 to 4 family residences;

"(2) the Board determines that the association's weak capital condition is not the result of imprudent operating practices, such as practices that were speculative at the time the practices were undertaken, insider abuses, excessive operating expenses, dividends paid by the association, or actions taken solely for the purpose of qualifying for capital recovery under this subsection;

"(3) the Board approves a plan submitted by the association for increasing such association's capital; and

"(4) the association—

"(A) adheres to the plan approved under paragraph (3); and

Reports.

"(B) submits regular and complete reports on such association's progress in meeting the association's goals under such plan.

"(c) ASSOCIATIONS WITH NET WORTH OF LESS THAN 0.5 PERCENT MAY PARTICIPATE IN CAPITAL RECOVERY.—In the regulations required to be prescribed under subsection (a), the Board may provide that a well-managed association with a net worth of less than 0.5 percent, as determined in accordance with regulatory accounting principles, may, in the discretion of the Board, be allowed to continue to operate and be eligible for capital forbearance if—

"(1) the conditions described in each paragraph of subsection (a) have been met with respect to such association; and

"(2) the association has reasonable and demonstrable prospects of returning to a satisfactory capital level, as determined by the Board.

"(d) DEFINITIONS.—For purposes of this section—

"(1) DESIGNATED ECONOMICALLY DEPRESSED REGION DEFINED.—The term 'designated economically depressed region' means any geographical region which the Board determines, by regulation, to be a region within which real estate values have suffered serious declines due to severe economic conditions, such as a decline in energy or agricultural values or prices.

101 STAT. 611

"(2) MINORITY.—The term 'minority' means any Black American, Native American, Hispanic American, or Asian American.

"(3) MINORITY ASSOCIATION.—The term 'minority association' means any association of which—

"(A) more than 50 percent of the ownership or control (of such association) is held by minority individuals; and

"(B) more than 50 percent of the net profit or loss (of such association) accrues to minority individuals.

"(4) MINORITY LOAN.—The term 'minority loan' means any obligation or other extension or advance of credit which is made to 1 or more minority individuals or to any person which is owned or controlled by 1 or more minority individuals.".

(b) STATE CHARTERED, FEDERALLY INSURED THRIFTS.—Title IV of the National Housing Act (12 U.S.C. 1724 et seq.) is amended by adding after section 415 (as added by section 402(b) of this title) the following new section:

"SEC. 416. THRIFT INDUSTRY RECOVERY REGULATIONS.

12 USC 1730i.

"(a) IN GENERAL.—The Corporation shall prescribe capital recovery regulations for regulating and supervising troubled but well-managed and viable insured institutions in a manner which will maximize the long-term viability of the thrift industry at the lowest cost to the Corporation.

"(b) CAPITAL RECOVERY.—The regulations required to be prescribed under subsection (a) shall provide that an insured institution with net worth of 0.5 percent or more, as determined in accordance with regulatory accounting principles, may be allowed to continue to operate and be eligible for capital forbearance if—

"(1) the Corporation determines that the insured institution's weak capital condition is—

"(A) primarily the result of losses recognized on, the nonperforming status of, or the failure of borrowers to otherwise remain in compliance with the repayment terms of, loans, or participations in loans, the value of the collateral for which has been adversely affected by economic conditions in a designated economically depressed region; or

"(B) primarily the result of losses recognized on, the nonperforming status of, or the failure of borrowers to otherwise remain in compliance with the repayment terms of, loans, or participation in loans, made by a minority institution 50 percent or more of whose loan assets are minority loans and 50 percent or more of whose originated loans are construction or permanent loans for 1 to 4 family residences;

Minorities.

"(2) the Corporation determines that the insured institution's

weak capital condition is not the result of imprudent operating practices, such as practices that were speculative at the time the practices were undertaken, insider abuses, excessive operating expenses, dividends paid by the insured institution, or actions taken solely for the purpose of qualifying for capital recovery under this subsection;

"(3) the Corporation approves a plan submitted by the insured institution for increasing such institution's capital; and

"(4) the insured institution—

"(A) adheres to the plan approved under paragraph (3); and

101 STAT. 612

Reports.

"(B) submits regular and complete reports on such institution's progress in meeting the institution's goals under such plan.

"(c) THRIFTS WITH NET WORTH OF LESS THAN 0.5 PERCENT MAY PARTICIPATE IN CAPITAL RECOVERY.—In the regulations required to be prescribed under subsection (a), the Corporation may provide that a well-managed insured institution with a net worth of less than 0.5 percent, as determined in accordance with regulatory accounting principles, may, in the discretion of the Corporation, be allowed to continue to operate and be eligible for capital forbearance if—

"(1) the conditions described in each paragraph of subsection (a) have been met with respect to such insured institution; and

"(2) the insured institution has reasonable and demonstrable prospects of returning to a satisfactory capital level, as determined by the Corporation.

"(d) DEFINITIONS.—For purposes of this section—

"(1) DESIGNATED ECONOMICALLY DEPRESSED REGION DEFINED.—The term 'designated economically depressed region' means any geographical region which the Corporation determines, by regulation, to be a region within which real estate values have suffered serious declines due to severe economic conditions, such as a decline in energy or agricultural values or prices.

"(2) MINORITY.—The term 'minority' means any Black American, Native American, Hispanic American, or Asian American.

"(3) MINORITY INSTITUTION.—The term 'minority institution' means any insured institution of which—

"(A) more than 50 percent of the ownership or control (of such insured institution) is held by minority individuals; and

"(B) more than 50 percent of the net profit or loss (of such insured institution) accrues to minority individuals.

"(4) MINORITY LOAN.—The term 'minority loan' means any obligation or other extension or advance of credit which is made to 1 or more minority individuals or to any person which is owned or controlled by 1 or more minority individuals.".

12 USC 1467a note.

(c) IMPLEMENTATION REPORT TO CONGRESS.—The Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation shall each submit a report to Congress containing the proposed regulations required to be prescribed under subsection (a) or (b), as the case may be, not later than the end of the 90-day period beginning on the date of the enactment of this Act.

12 USC 1467a note.

(d) EFFECTIVE DATE OF REGULATIONS.—The regulations required to be prescribed under the amendments made by subsections (a) and (b) shall be implemented not later than the end of the 150-day period beginning on the date of the enactment of this Act.

12 USC 1467a note.

(e) AGENCY STUDY AND REPORT ON, AND CONGRESSIONAL REVIEW OF, CAPITAL RECOVERY.—

(1) STUDY AND REPORT REQUIRED.—Not later than January 31, 1989, the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation shall jointly—

(A) conduct a detailed evaluation of the effectiveness of the regulations required to be prescribed under the amendments made by subsections (a) and (b) in achieving an increased level of capitalization for thrift institutions; and

(B) submit a report to the Congress containing the findings and conclusions of the Board and the Corporation in

connection with the study required under subparagraph (A). 101 STAT. 613

(2) CONGRESSIONAL REVIEW.—The Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate shall, upon receipt of the report under paragraph (1)(B), review the regulations and recommend such revisions to the regulations as may be appropriate.

SEC. 405. CAPITAL INSTRUMENT PURCHASE PROGRAM.

Section 406(f) of the National Housing Act (12 U.S.C. 1729(f)) is amended by adding at the end thereof the following new paragraph:

"(6) CAPITAL INSTRUMENT PURCHASE PROGRAM.—

"(A) IN GENERAL.—Notwithstanding any other provision of Federal law (other than subparagraph (C)) and without limitation on any other authority of the Corporation or the Federal Home Loan Bank Board, the Corporation may exercise its authority to purchase capital instruments in the case of any insured institution for which a plan for increasing capital has been approved by the Corporation pursuant to section 416 or by such Board pursuant to section 10 of the Home Owners' Loan Act of 1933. *Ante*, p. 611. *Ante*, p. 609.

"(B) TERMS AND CONDITIONS.—Except as provided in subparagraph (C), the purchase of capital instruments under subparagraph (A) shall be subject to such terms and conditions as the Corporation may prescribe.

"(C) WARRANT REQUIREMENT.—

"(i) IN GENERAL.—In the case of an insured institution with capital stock, the Corporation shall require such institution to negotiate with the Corporation warrants for the purchase of shares of stock as a condition for the purchase of capital instruments by the Corporation, on such terms and conditions as the Corporation may prescribe.

"(ii) MUTUAL INSTITUTIONS.—If any insured institution—

"(I) which is organized on a mutual basis; and

"(II) with respect to which the Corporation has purchased capital instruments,

converts to a stock charter, such insured institution shall comply with the requirements of clause (i) immediately upon such conversion.

"(iii) MAXIMUM AMOUNT.—The amount of shares for which warrants are negotiated under subparagraph (A) with respect to any insured institution shall not exceed the total number of shares outstanding at the time such warrants are issued to the Corporation.

"(iv) REDEMPTION BY INSURED INSTITUTION.—Upon the full redemption of the capital instruments by an insured institution, including all accumulated unpaid dividends, the Corporation may, at the discretion of the Corporation, tender the warrants for redemption by the insured institution.

"(v) PAYMENT ON REDEMPTION.—Upon any redemption of warrants under clause (iv), the insured institution shall pay the Corporation the difference between the fair market value of the warrants on the date of redemption and the exercise price of such warrants. 101 STAT. 614

"(vi) PROCEEDS FROM REDEMPTION OF WARRANTS.—The proceeds of any sale or redemption of warrants under clause (iv) shall be deposited in and be considered a part of the primary reserve established under section 404(a). 12 USC 1727.

"(D) DIVIDENDS.—Capital instruments purchased by the Corporation under subparagraph (A) shall pay dividends at a reasonable rate, as determined by the Corporation, and the rate shall be indexed to obligations issued by the Secretary of the Treasury under subchapter I of chapter 31 of title 31, United States Code. 31 USC 3101.

"(E) PRIORITY.—

"(i) IN GENERAL.—In the event of the liquidation or reorganization of any insured institution with respect to which the Corporation holds capital instruments under this paragraph, the Corporation shall have priority over—

Claims.

"(I) any claim, other than a claim described in clause (ii), arising out of any equity interest in such insured institution; and

"(II) any right of any holder of an equity interest in such insured institution to participate in future earnings.

"(ii) DIVIDENDS.—

"(I) NO OTHER DIVIDENDS.—No dividends may be paid on any class of equity instruments of any insured institution (other than a capital instrument held by the Corporation) until all dividends, including accumulated unpaid dividends, on the capital instruments are paid.

"(II) PROHIBITION CEASES IF PAYMENT REDEMPTION PAYMENTS AND DIVIDENDS ARE CURRENT.—If all payments on capital instruments held by the Corporation with respect to any insured institution, including redemption payments and dividends, are current, dividends on other classes of equity instruments of such insured institution may be paid, notwithstanding subclause (I).".

SEC. 406. MINIMUM CAPITAL REQUIREMENTS.

(a) FEDERALLY CHARTERED THRIFTS.—Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by adding at the end thereof the following new subsection:

"(s) MINIMUM CAPITAL REQUIREMENTS.—

"(1) IN GENERAL.—Consistent with the purposes of section 908 of the International Lending Supervision Act of 1983 and the capital requirements established pursuant to such section by the appropriate Federal banking agencies (as defined in section 903(1) of such Act), the Board shall require all associations to achieve and maintain adequate capital by—

12 USC 3907.

12 USC 3902.

"(A) establishing minimum levels of capital for associations; and

"(B) using such other methods as the Board determines to be appropriate.

"(2) MINIMUM CAPITAL LEVELS MAY BE DETERMINED BY BOARD ON CASE-BY-CASE BASIS.—The Board may establish the minimum level of capital for an association at such amount or at such ratio of capital-to-assets as the Board determines to be necessary or appropriate for such association in light of the particular circumstances of the association.

101 STAT. 615

"(3) UNSAFE OR UNSOUND PRACTICE.—In the Board's discretion, the Board may treat the failure of any association to maintain capital at or above the minimum level required by the Board under this subsection as an unsafe or unsound practice within the meaning of subsection (d).

"(4) DIRECTIVE TO INCREASE CAPITAL.—

"(A) PLAN MAY BE REQUIRED.—In addition to any other action authorized by law, including paragraph (3), the Board may issue a directive requiring any association which fails to maintain capital at or above the minimum level required by the Board to submit and adhere to a plan for increasing capital which is acceptable to the Board.

"(B) ENFORCEMENT OF PLAN.—Any directive issued and plan approved under subparagraph (A) shall be enforceable under subsection (d)(8) to the same extent and in the same manner as an outstanding order which was issued under subsection (d)(2) and has become final.

"(5) PLAN TAKEN INTO ACCOUNT IN OTHER PROCEEDINGS.—The Board may—

"(A) consider an association's progress in adhering to any plan required under paragraph (4) whenever such association or any affiliate of such association (including any company which controls such association) seeks the approval of the Board for any proposal which would have the effect of diverting earnings, diminishing capital, or otherwise impeding such association's progress in meeting the minimum level of capital required by the Board; and

"(B) disapprove any proposal referred to in subparagraph (A) if the Board determines that the proposal would adversely affect the ability of the association to comply with such plan.".

(b) STATE CHARTERED, FEDERALLY INSURED THRIFTS.—Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by adding at the end thereof the following new subsection:

"(t) MINIMUM CAPITAL REQUIREMENTS.—

"(1) IN GENERAL.—Consistent with the purposes of section 908 of the International Lending Supervision Act of 1983 and the capital requirements established pursuant to such section by the appropriate Federal banking agencies (as defined in section 903(1) of such Act), the Corporation shall require all insured institutions to achieve and maintain adequate capital by— 12 USC 3907. 12 USC 3902.

"(A) establishing minimum levels of capital for insured institutions; and

"(B) using such other methods as the Corporation determines to be appropriate.

"(2) MINIMUM CAPITAL LEVELS MAY BE DETERMINED BY CORPORATION ON CASE-BY-CASE BASIS.—The Corporation may establish the minimum level of capital for an insured institution at such amount or at such ratio of capital-to-assets as the Corporation determines to be necessary or appropriate for such insured institution in light of the particular circumstances of the insured institution.

"(3) UNSAFE OR UNSOUND PRACTICE.—In the Corporation's discretion, the Corporation may treat the failure of any insured institution to maintain capital at or above the minimum level required by the Corporation under this subsection as an unsafe or unsound practice within the meaning of subsection (e). 101 STAT. 616

"(4) DIRECTIVE TO INCREASE CAPITAL.—

"(A) PLAN MAY BE REQUIRED.—In addition to any other action authorized by law, including paragraph (3), the Corporation may issue a directive requiring any insured institution which fails to maintain capital at or above the minimum level required by the Corporation to submit and adhere to a plan for increasing capital which is acceptable to the Corporation.

"(B) ENFORCEMENT OF PLAN.—Any directive issued and plan approved under subparagraph (A) shall be enforceable under subsection (k) to the same extent and in the same manner as an outstanding order which was issued under subsection (e) and has become final.

"(5) PLAN TAKEN INTO ACCOUNT IN OTHER PROCEEDINGS.—The Corporation may—

"(A) consider an insured institution's progress in adhering to any plan required under paragraph (4) whenever such insured institution or any affiliate of such insured institution (including any company which controls such insured institution) seeks the approval of the Corporation for any proposal which would have the effect of diverting earnings, diminishing capital, or otherwise impeding such insured institution's progress in meeting the minimum level of capital required by the Corporation; and

"(B) disapprove any proposal referred to in subparagraph (A) if the Corporation determines that the proposal would adversely affect the ability of the insured institution to comply with such plan.".

12 USC 1437 note.

SEC. 407. IMPROVEMENTS IN THE SUPERVISORY PROCESS.

(a) ENHANCED FLEXIBILITY IN THE SUPERVISORY PROCESS.—The Federal Home Loan Bank Board (acting as such under the Federal Home Loan Bank Act and in the Board's capacity as the board of trustees of the Federal Savings and Loan Insurance Corporation under section 402(a) of the National Housing Act) shall issue guidelines which provide greater flexibility for supervisory agents, examiners, and other employees and agents of the Board, the Federal Savings and Loan Insurance Corporation, and the Federal home loan banks in applying regulations, standards, and other requirements of the Board or such Corporation with regard to particular situations or particular thrift institutions.

12 USC 1725.

(b) PARTICULAR GUIDELINES REQUIRED.—The guidelines issued under subsection (a) shall contain the following provisions:

(1) FLEXIBLE APPROVAL PROCESS FOR RENEGOTIATED LOANS.—A provision establishing a flexible procedure for obtaining supervisory approval of the terms of loans renegotiated by thrift institutions if a supervisory agreement is in effect between such institution and the principal supervisory agent of the Federal home loan bank district where such institution is located.

(2) RECOGNITION OF ADDITIONAL FINANCIAL CAPABILITY OF A BORROWER.—A provision permitting examiners and other employees and agents of the Board, the Federal Savings and Loan Insurance Corporation, and the Federal home loan banks to take into account, to the extent consistent with the practices of the Federal banking agencies, other financial resources of a borrower (in addition to the financial assets of the borrower which are pledged to secure a loan) in classifying the assets of the thrift institution which holds a loan made to such borrower or with recourse to the borrower.

101 STAT. 617

(3) APPRAISAL REVIEW.—A provision establishing an appraisal review system to avoid overly optimistic or conservative appraisals with the goal of achieving appraisals that are more consistent in reflecting underlying values.

(4) 1-TO-4 FAMILY RESIDENCES.—A provision eliminating the scheduled item system except as such system relates to 1-to-4 family residences.

(c) DEFINITIONS.—For purposes of subsections (a) and (b)—

(1) THRIFT INSTITUTION.—The term "thrift institution" means—

12 USC 1462.

(A) any association (within the meaning given to such term in section 2(d) of the Home Owners' Loan Act of 1933);

12 USC 1724.

(B) any insured institution (within the meaning given to such term in section 401(a) of the National Housing Act); and

12 USC 1422.

(C) any member (within the meaning given to such term in section 2(4) of the Federal Home Loan Bank Act).

(2) BOARD.—The term "Board" means the Federal Home Loan Bank Board.

(3) FEDERAL BANKING AGENCY.—The term "Federal banking agency" means the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

(d) NONADVERSARIAL REVIEW OF CERTAIN SUPERVISORY DECISIONS.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 22 the following new section:

12 USC 1442a.

"SEC. 22A. INFORMAL REVIEW OF CERTAIN SUPERVISORY DECISIONS.

"(a) REVIEW OF CERTAIN SUPERVISORY DECISIONS.—The Board shall establish an informal review procedure under which any association, insured institution, or member may obtain a review, by the principal supervisory agent for the Federal home loan bank district in which such association, institution, or member is located, of any decision by any examiner or supervisory agent of the Federal home loan bank for such district with respect to—

"(1) the appraisal value of—

"(A) any loan held by the association, insured institution, or member; or

"(B) any property serving as collateral to secure the repayment of any loan (held by the association, institution, or member);

"(2) the classification of any loan held by the association, institution, or member; or

"(3) any requirement imposed on the association, institution, or member to establish or to add to a reserve or allowance for a possible loss on any loan held by such institution.

"(b) STANDARDS FOR REVIEW.—The review procedure established pursuant to subsection (a) shall provide that the principal supervisory agent for the appropriate Federal home loan bank district, after taking into account the report described in subsection (c)(2) by the arbiter (or panel of arbiters), shall approve, modify, or set aside any decision for which a review has been requested on the basis of the supervisory agent's review of all the facts and the regulations applicable to such decision and shall take such action as such agent may determine to be necessary or appropriate in light of such review. 101 STAT. 618

"(c) APPOINTMENT OF INDEPENDENT ARBITER.—The review procedure established pursuant to subsection (a) shall provide for the appointment (by the principal supervisory agent for the appropriate Federal home loan bank district, upon the filing of a request for a review under this section by an association, insured institution, or member) of an independent arbiter (or, upon the request of such association, institution, or member, a panel of independent arbiters) who shall—

"(1) review the decision which is the subject of the review in light of all the facts of the case and the regulations applicable to such determination; and

"(2) report the conclusions and recommendations of the independent arbiter (or the panel) with respect to the decision under review to the principal supervisory agent for the appropriate Federal home loan bank district and the association, insured institution, or member.

"(d) CONSOLIDATION OF REVIEWS OF RELATED DECISIONS.—The principal supervisory agent may consolidate requests for review under this section of related decisions and conduct a single review of all such related decisions.

"(e) 25-DAY ARBITER REVIEW PERIOD; 20-DAY PSA REVIEW PERIOD.—

"(1) ARBITER REVIEW.—The review procedure established pursuant to subsection (a) shall provide that any review described in subsection (c) by an arbiter (or panel of arbiters) shall be completed before the end of the 25-day period beginning on the date the request for the review was filed with the principal supervisory agent.

"(2) REVIEW BY PSA.—The review procedure established pursuant to subsection (a) shall provide that any review by the principal supervisory agent of an arbiter's report described in subsection (c)(2) (or the report of a panel of arbiters) shall be completed before the end of the 20-day period beginning on the date the agent receives such report.

"(3) ONLY BUSINESS DAYS INCLUDED.—Saturdays, Sundays, and holidays shall not be taken into account in determining the periods described in paragraphs (1) and (2).

"(f) CLARIFICATION OF RELATIONSHIP BETWEEN INFORMAL REVIEW AND OTHER AVAILABLE REVIEW.—

"(1) INFORMAL REVIEW NOT EXCLUSIVE.—The informal review procedure established pursuant to subsection (a) for reviewing any decision referred to in such subsection shall be in addition to, and not in lieu of, any other procedure established by law, or any regulation of the Board, which provides for formal administrative or judicial review of such decision.

"(2) ONLY THE ORIGINAL DECISION IS WITHIN SCOPE OF ADMINISTRATIVE AND JUDICIAL REVIEW.—If any association, insured institution, or member seeks administrative or judicial review of any examiner or supervisory agent decision for which such association, insured institution, or member obtained an informal review under the procedure established pursuant to subsection (a), such administrative or judicial review shall be carried out—

"(A) without regard to the fact that such informal review was made; and

101 STAT. 619

"(B) without admitting into evidence, or otherwise taking into account, the findings, recommendations, or conclusions of the principal supervisory agent and the independent arbiter (or the panel of independent arbiters) which conducted the informal review.

"(3) INFORMAL REVIEW NOT SUBJECT TO FORMAL REVIEW.—The findings, recommendations, or conclusions of any principal supervisory agent who conducted a review under the procedure established pursuant to subsection (a) are not decisions which may be subject to review by the Board or any court under any regulation of the Board or any law.

"(g) EXPENSES OF REVIEW BORNE BY ASSOCIATION, INSTITUTION, OR MEMBER.—All reasonable expenses incurred as a direct or indirect result of any review under the procedure established pursuant to subsection (a) shall be paid by the association, insured institution, or member which requested the review.".

SEC. 408. PREVENTION OF INSOLVENCIES.

Reports.

Before the end of the 6-month period beginning on the date of the enactment of this Act, the Federal Home Loan Bank Board shall submit a report to the Congress containing—

(1) a detailed description of the steps the Board has taken and is planning to take to prevent additional failures of thrift institutions; and

(2) such recommendations for legislation as the Board may determine to be appropriate.

SEC. 409. FEASIBILITY STUDY RELATING TO ESTABLISHMENT OF ASSET HOLDING CORPORATION.

Real property.

(a) STUDY REQUIRED.—The Federal Home Loan Bank Board shall study the feasibility of establishing an asset holding corporation to relieve thrift institutions of the burden of carrying and maintaining troubled real estate assets by providing for the acquisition of such assets by such corporation.

(b) FACTORS TO BE CONSIDERED.—In studying the feasibility of establishing an asset holding corporation, the Federal Home Loan Bank Board shall—

(1) estimate the cost of establishing and operating such corporation for the purposes intended;

(2) consider whether sufficient capital for the establishment and operation of the corporation can be obtained from the private sector or from the Federal home loan bank system without any Government investment in the corporation;

(3) develop standards for determining the type and condition of real estate assets which would be eligible for acquisition by such corporation and estimate the total value of such real estate; and

(4) develop a proposal for allowing participating thrift institutions to obtain an equity participation in the corporation.

(c) REPORT REQUIRED.—The Federal Home Loan Bank Board shall prepare and submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than 6 months after the date of the enactment of this Act, a report containing the findings and conclusions of the Board with respect to the study required under subsection (a) and any recommendation of

the Board for legislation which the Board determines may be necessary or appropriate. 101 STAT. 620

SEC. 410. NOTICE AND DISAPPROVAL PROCEDURE REQUIRED FOR ALL APPLICATIONS TO THE BANK BOARD. 12 USC 1437 note.

(a) IN GENERAL.—The Federal Home Loan Bank Board shall promulgate guidelines which provide that with respect to each type of completed application (other than an application under section 408(g) of the National Housing Act) by any person for approval by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation, the application shall be deemed to be approved as of the end of the period prescribed under such guidelines unless the Board or the Federal Savings and Loan Insurance Corporation, as the case may be, approves or disapproves such application before the end of such period.

(b) APPLICATION FOR HOLDING COMPANY INDEBTEDNESS.—Section 408(g) of the National Housing Act (12 U.S.C. 1730a(g)) is amended by adding at the end thereof the following new paragraph:

"(7) Any completed application under this subsection shall be deemed to be approved as of the end of the 60-day period beginning on the date such application was filed, unless the Corporation issues notice of approval or disapproval of the application before the end of such period.".

(c) REPORT TO CONGRESS.—Before the end of the 60-day period beginning on the date of the enactment of this Act, the Federal Home Loan Bank Board shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing the guidelines required to be promulgated under subsection (a).

(d) EFFECTIVE DATE.—The guidelines required to be promulgated under subsection (a) shall take effect at the end of the 60-day period referred to in subsection (c).

SEC. 411. GUIDELINES FOR ASSET DISPOSITION. 12 USC 1437 note. Reports.

Not later than 6 months after the date of the enactment of this Act, the Federal Home Loan Bank Board shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing appropriate new guidelines which—

(1) prevent the dumping of assets over which it has direct or indirect control; and

(2) the Board shall promulgate at the end of such period.

SEC. 412. EXPANSION OF USE OF UNDERUTILIZED MINORITY THRIFT INSTITUTIONS. 12 USC 1437 note.

(a) CONSULTATION ON EXPANDED USE.—The Secretary of the Treasury shall consult with the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation on methods for increasing the use of underutilized minority thrift institutions as depositaries or financial agents of Federal agencies.

(b) DESIGNATION OF MINORITY THRIFT INSTITUTIONS INVOLVED IN CAPITAL RECOVERY PROGRAM AS UNDERUTILIZED THRIFT.—If the Federal Home Loan Bank Board approves any plan submitted under regulations prescribed under section 10 of the Home Owners' Loan Act of 1933 (as added by section 404(a) of this title) or section 416 of the National Housing Act (as added by section 404(c) of this title) by any minority institution (as defined in each such section), such minority institution shall be designated by the Board as an underutilized thrift institution for purposes of increasing the use of such association as a depositary or financial agent of other Federal agencies. 101 STAT. 621 *Ante*, p. 609. *Ante*, p. 611.

(c) REPORT TO CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury, the Federal Home Loan Bank Board, and the Federal

Savings and Loan Insurance Corporation shall each submit a report to the Congress on actions taken by such Secretary or agency pursuant to subsection (a) or (b).

(d) THRIFT INSTITUTION DEFINED.—For purposes of this section, the term "thrift institution" has the meaning given to such term in section 407(c)(1).

SEC. 413. AUTHORITY OF INDEPENDENT CONTRACTORS, CONSULTANTS, AND COUNSEL.

(a) FEDERALLY CHARTERED THRIFT INSTITUTIONS.—Section 5(d)(6) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(6)) (relating to appointments of receivers and conservators) is amended by adding at the end thereof the following new subparagraph:

"(E) DISCLOSURE REQUIREMENT FOR THOSE ACTING ON BEHALF OF CONSERVATOR.—A conservator shall require that any independent contractor, consultant, or counsel employed by the conservator in connection with the conservatorship of an association pursuant to this section shall fully disclose to all parties with which such contractor, consultant, or counsel is negotiating, any limitation on the authority of such contractor, consultant, or counsel to make legally binding representations on behalf of the conservator.".

(b) FEDERALLY INSURED STATE CHARTERED THRIFT INSTITUTIONS.—Section 406(b) of the National Housing Act (12 U.S.C. 1730) (relating to involuntary termination of insurance) is amended by adding at the end thereof the following new paragraph:

"(4) DISCLOSURE REQUIREMENT FOR THOSE ACTING ON BEHALF OF CORPORATION.—The Corporation shall require that any independent contractor, consultant, or counsel employed by the Corporation in connection with the management or liquidation of an insured institution shall fully disclose to all parties with which such contractor, consultant, or counsel is negotiating, any limitation on the authority of such contractor, consultant, or counsel to make legally binding representations on behalf of the Corporation.".

SEC. 414. EXTENSION OF FORBEARANCE PREVIOUSLY PROVIDED IN THE ACQUISITION OF TROUBLED THRIFT INSTITUTIONS.

Section 408(m)(1)(A) of the National Housing Act (12 U.S.C. 1730a(m)(1)(A)) is amended by adding at the end thereof the following new clause:

"(iv) If, in connection with a merger, consolidation, transfer, or acquisition of an insured institution under this subparagraph before March 31, 1987, forbearance measures have been included in the agreement governing the supervisory action with respect to such transaction, the period of forbearance in such agreement shall be extended for an additional 5 years upon a showing by the acquiring or resulting insured institution that any failure to meet any requirement, restriction, or limitation specified in such agreement with
101 STAT. 622 respect to any such forbearance measure is attributable to the assets or liabilities (of the acquired or merged insured institution) which were acquired by or assumed by the acquiring or resulting insured institution.".

12 USC 1437 note.

SEC. 415. CONGRESSIONAL OVERSIGHT.

(a) BANKING COMMITTEE REVIEW OF PANEL ACTIONS.—The Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate shall monitor and review the actions taken by each review panel established pursuant to the amendment made by section 407(d) of this Act.

Ante, p. 616.

Reports.

(b) OTHER CONGRESSIONAL OVERSIGHT.—The Federal Home Loan Bank Board shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives, at the end of the 6-month period beginning on the date of the enactment of this title, at the end of the 1-year period beginning on such date, and on an annual basis after the end of such 1-year period, containing—

(1) a description of the Board's existing manpower and talent;

(2) an estimate of the Board's projected manpower and talent needs for the year, including the cost of such projected needs;

(3) a description and explanation of the goals and objectives, of the Board and all its related entities (including the Federal Asset Disposition Association), for the coming year and the management strategies to be employed by such entities in accomplishing such goals and objectives;

(4) a summary of the operations, receipts, expenses, and expenditures, of the Board and all its related entities (including the Federal Asset Disposition Association), during the preceding year; and

(5) a summary of the operations and the aggregate receipts, expenses, and expenditures of any other person not referred to in paragraph (4), including receivers, conservators, accountants, attorneys, and consultants, who is engaged in any activity on behalf of the Board or any other entity which is referred to in such paragraph, to the extent such operations, receipts, expenses, and expenditures are in connection with such activity.

(c) APPEARANCE.—The Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation shall, before the beginning of each fiscal year, appear before the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate to describe and explain each such agency's plans and proposals with respect to administrative expenses for such fiscal year.

(d) GUIDELINES FOR EMPLOYMENT OF OUTSIDE ACCOUNTANTS, ATTORNEYS, CONSERVATORS, AND OTHER CONSULTANTS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Federal Home Loan Bank Board shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing guidelines to improve the management of and control over all outside accountants, attorneys, conservators, consultants, and other persons whose services are employed by the Board, the Federal Savings and Loan Insurance Corporation, the Federal Asset Disposition Association, the principal supervisory agent for any Federal home loan bank district, or any other entity created, owned, or controlled by the Board in connection with any function for which the Board has direct or indirect regulatory or supervisory responsibility.

Reports.

101 STAT. 623

SEC. 416. SUNSET.

12 USC 1441 note.

(a) IN GENERAL.—The following provisions shall cease to be effective on the date that a notice is published in the Federal Register by the Financing Corporation pursuant to subsection (b):

Federal Register, publication.

(1) Paragraphs (2), (3), and (5) of—

(A) section 9(a) of the Home Owners' Loan Act of 1933; and

(B) section 415(a) of the National Housing Act,

(as added by subsections (a) and (b), respectively, of section 402 of this title).

Ante, pp. 605, 606.

(2) Section 10 of the Home Owners' Loan Act of 1933 and section 416 of the National Housing Act (as added by subsections (a) and (b), respectively, of section 404 of this title).

Ante, pp. 609, 611.

(3) Paragraph (6) of section 406(f) of the National Housing Act (as added by section 405 of this title).

Ante, p. 613.

(4) Section 22A of the Federal Home Loan Bank Act (as added by section 407(d) of this title).

Ante, p. 617.

(5) Section 411 of this title.

Ante, p. 620.

(b) NOTICE OF COMPLETION OF NET NEW BORROWING BY FINANCING CORPORATION.—When the Financing Corporation established pursuant to section 21 of the Federal Home Loan Bank Act has completed all net new borrowing under such section, the Financing Corporation shall publish a notice of such fact in the Federal Register.

Federal Register, publication.

Ante, p. 585.

(c) SAVINGS PROVISION.—The termination by subsection (a) of the effectiveness of any provision described in such subsection shall not be construed to affect or limit any authority of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation to prescribe any regulation or engage in any activity with respect to any association or insured institution under any other provision of law.

TITLE V—FINANCIAL INSTITUTIONS EMERGENCY ACQUISITIONS

Financial Institutions Emergency Acquisitions Amendments of 1987.

12 USC 1811 note.

SEC. 501. SHORT TITLE.

This title may be cited as the "Financial Institutions Emergency Acquisitions Amendments of 1987".

SEC. 502. FDIC ASSISTED EMERGENCY INTERSTATE ACQUISITIONS.

(a) GENERAL PROVISIONS.—Section 13(f)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)(1)) is amended to read as follows:

"(f) ASSISTED EMERGENCY INTERSTATE ACQUISITIONS.—(1) This subsection shall apply only to an acquisition of an insured bank or a holding company by an out-of-State bank or out-of-State holding company for which the Corporation provides assistance under subsection (c).".

(b) EMERGENCY INTERSTATE ACQUISITIONS OF BANKS IN DANGER OF CLOSING.—Section 13(f)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)(3)) is amended to read as follows:

"(3) EMERGENCY INTERSTATE ACQUISITIONS OF INSURED BANKS IN DANGER OF CLOSING.—

101 STAT. 624

"(A) ACQUISITION OF INSURED BANKS IN DANGER OF CLOSING.—One or more out-of-State banks or out-of-State holding companies may acquire and retain all or part of the shares or assets of, or otherwise acquire and retain—

"(i) an insured bank in danger of closing which has total assets of $500,000,000 or more; or

"(ii) 2 or more affiliated insured banks in danger of closing which have aggregate total assets of $500,000,000 or more, if the aggregate total assets of such banks is equal to or greater than 33 percent of the aggregate total assets of all affiliated insured banks.

"(B) ACQUISITION OF A HOLDING COMPANY OR OTHER BANK AFFILIATE.—If one or more out-of-State banks or out-of-State holding companies acquire 1 or more affiliated insured banks under subparagraph (A) the aggregate total assets of which is equal to or greater than 33 percent of the aggregate total assets of all affiliated insured banks, any such out-of-State bank or out-of-State holding company may also, as part of the same transaction, acquire and retain the shares or assets of, or otherwise acquire and retain—

"(i) the holding company which controls the affiliated insured banks so acquired; or

"(ii) any other affiliated insured bank.

"(C) REQUEST FOR ASSISTANCE BY CORPORATE BOARD OF DIRECTORS.—The Corporation may assist an acquisition or merger authorized under subparagraph (A) only if the board of directors or trustees of each insured bank in danger of closing which is being acquired has requested in writing that the Corporation assist the acquisition or merger.

"(D) CERTAIN ACQUISITIONS AUTHORIZED AFTER ASSISTANCE IS PROVIDED.—Notwithstanding paragraph (1), if—

"(i) at any time after the date of the enactment of the Financial Institutions Emergency Acquisitions Amendments of 1987, the Corporation provides any assistance under subsection (c) to an insured bank; and

"(ii) at the time such assistance is granted, the insured bank, the holding company which controls the insured bank (if any), or any affiliated insured bank is eligible to be acquired by an out-of-State bank or out-of-State holding company under this paragraph,

the insured bank, the holding company, and such other affiliated insured bank shall remain eligible, subject to such terms and conditions as the Corporation (in the Corporation's discretion) may impose, to be acquired by an out-of-State bank or out-of-State holding company under this paragraph as long as any portion of such assistance remains outstanding.

"(E) STATE BANK SUPERVISOR APPROVAL.—The Corporation may take no final action in connection with any acquisition under this paragraph unless the State bank supervisor of the State in which the bank in danger of closing is located approves the acquisition.

"(F) OTHER REQUIREMENTS NOT AFFECTED.—This paragraph does not affect any other requirement under Federal or State law for regulatory approval of an acquisition under this paragraph.

"(G) ACQUISITION MAY BE CONDITIONED ON RECEIPT OF CONSIDERATION FOR CORPORATION'S ASSISTANCE.—Any acquisition described in subparagraph (D) may be conditioned on the receipt of such consideration for the Corporation's assistance as the Board of Directors deems appropriate.". 101 STAT. 625

(c) SPECIAL PROVISIONS APPLICABLE TO EMERGENCY INTERSTATE ACQUISITIONS.—

(1) COORDINATION WITH CERTAIN STATE LAWS.—Section 13(f)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)(4)) is amended—

(A) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively;

(B) by amending subparagraph (A) (as so redesignated) to read as follows:

"(A) ACQUISITIONS NOT SUBJECT TO CERTAIN OTHER LAWS.—Section 3(d) of the Bank Holding Company Act of 1956, any provision of State law, the constitution of any State, and section 408(e)(3) of the National Housing Act shall not apply to prohibit any acquisition under paragraph (2) or (3), except that an out-of-State bank may make such an acquisition only if such ownership is otherwise specifically authorized."; and 12 USC 1842. 12 USC 1730a.

(C) by adding at the end thereof the following new subparagraphs:

"(D) SUBSEQUENT NONEMERGENCY INTERSTATE ACQUISITIONS SUBJECT TO STATE LAW.—

"(i) IN GENERAL.—Any out-of-State bank holding company which acquires control of an insured bank in any State under paragraph (2) or (3) may acquire any other insured bank and establish branches in such State to the same extent as a bank holding company whose insured bank subsidiaries' operations are principally conducted in such State may acquire any other insured bank or establish branches.

"(ii) DELAYED DATE OF APPLICABILITY.—Clause (i) shall not apply with respect to any out-of-State bank holding company referred to in such clause before the earlier of—

"(I) the end of the 2-year period beginning on the date the acquisition referred to in such clause with respect to such company is consummated; or

"(II) the end of any period established under State law during which such out-of-State bank holding company may not be treated as a bank holding company whose insured bank subsidiaries' operations are principally conducted in such State for purposes of acquiring other insured banks or establishing bank branches.

"(iii) DETERMINATION OF PRINCIPALLY CONDUCTED.—For purposes of this subparagraph, the State in which the operations of a holding company's insured bank subsidiaries are principally conducted is the State determined under section 3(d) of the Bank Holding Company Act of 1956 with respect to such holding company.

"(E) CERTAIN STATE INTERSTATE BANKING LAWS INAPPLICABLE.—Any holding company which acquires control of any insured bank or holding company under paragraph (2) or (3) or subparagraph (D) of this paragraph shall not, by reason of such acquisition, be required under the law of any State to divest any other insured bank or be prevented from acquiring any other bank or holding company.".

101 STAT. 626

(2) RECIPROCAL BANK PACTS AND MINORITY BANK OWNERSHIP TAKEN INTO ACCOUNT IN BIDDING PRIORITIES.—Section 13(f)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)(6)) is amended—

(A) in subparagraph (B), by striking out clause (ii) and all that follows through clause (iv) and inserting in lieu thereof the following new clauses:

"(ii) Second, between depository institutions of the same type—

"(I) in different States which by statute specifically authorize such acquisitions; or

"(II) in the absence of such statutes, in different States which are contiguous.

"(iii) Third, between depository institutions of the same type in different States other than the States described in clause (ii).

"(iv) Fourth, between depository institutions of different types in the same State.

"(v) Fifth, between depository institutions of different types—

"(I) in different States which by statute specifically authorize such acquisitions; or

"(II) in the absence of such statutes, in different States which are contiguous.

"(vi) Sixth, between depository institutions of different types in different States other than the States described in clause (v).";

and

(B) by amending subparagraph (C) to read as follows:

"(C) MINORITY BANK PRIORITY.—In the case of a minority-controlled bank, the Corporation shall seek an offer from other minority-controlled banks before proceeding with the bidding priorities set forth in subparagraph (B).".

(3) REAFFIRMATION OF THE RULE THAT NO ASSISTANCE IS AUTHORIZED FOR NONBANK SUBSIDIARIES OF HOLDING COMPANIES.—Section 13(f) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)) is amended by adding at the end thereof the following new paragraph:

"(9) NO ASSISTANCE AUTHORIZED FOR NONBANK SUBSIDIARIES OF HOLDING COMPANIES.—

"(A) IN GENERAL.—The Corporation shall not provide any assistance to a subsidiary of a holding company which is not an insured bank in connection with any acquisition under this subsection.

"(B) INTERMEDIATE HOLDING COMPANY PERMITTED.—This paragraph does not prohibit an intermediate holding company from being a conduit for assistance ultimately intended for an insured bank.".

(4) REPORTS REQUIRED.—Section 13(f) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)) is amended by adding after paragraph (9) (as added by paragraph (3) of this subsection) the following new paragraph:

"(10) ANNUAL REPORT.—

"(A) REQUIRED.—In its annual report to Congress the Corporation shall include a report on the acquisitions under this subsection during the preceding year.

"(B) CONTENTS.—The report required under subparagraph (A) shall contain the following information:

"(i) The number of acquisitions under this subsection.

"(ii) A brief description of each such acquisition and the circumstances under which such acquisition occurred.". 101 STAT. 627

(5) DETERMINATION OF TOTAL ASSETS.—Section 13(f) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)) is amended by adding after paragraph (10) (as added by paragraph (4) of this subsection) the following new paragraph:

"(11) DETERMINATION OF TOTAL ASSETS.—For purposes of this subsection, the total assets of any insured bank shall be determined on the basis of the most recent report of condition of such bank which is available at the time of such determination.".

(d) BANK IN DANGER OF CLOSING DEFINED.—Section 13(f)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)(8)) is amended—

(1) by adding at the end thereof the following new subparagraph:

"(D) the term 'bank in danger of closing' means an insured bank with respect to which the appropriate Federal or State chartering authority certifies in writing that—

"(i)(I) the bank is not likely to be able to meet the demands of such bank's depositors or pay the obligations of the bank in the normal course of business, and

"(II) there is no reasonable prospect that the bank will be able to meet such demands or pay such obligations without Federal assistance; or

"(ii)(I) the bank has incurred or is likely to incur losses that will deplete all or substantially all of the capital of the bank, and

"(II) there is no reasonable prospect for the replenishment of the bank's capital without Federal assistance;";

(2) by striking out "and" at the end of subparagraph (B); and

(3) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon.

(e) ACQUIRE DEFINED.—Section 13(f)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)(8)) is amended by adding after subparagraph (D) (as added by subsection (d) of this section) the following new subparagraph:

"(E) the term 'acquire' means to acquire, directly or indirectly, ownership or control through—

"(i) an acquisition of shares;

"(ii) an acquisition of assets or assumption of liabilities;

"(iii) a merger or consolidation; or

"(iv) any similar transaction;".

(f) AFFILIATED INSURED BANK DEFINED.—Section 13(f)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)(8)) is amended by adding after subparagraph (E) (as added by subsection (e) of this section) the following new subparagraph:

"(F) the term 'affiliated insured bank' means—

"(i) when used in connection with a reference to a holding company, an insured bank which is a subsidiary of such holding company; and

"(ii) when used in connection with a reference to 2 or more insured banks, insured banks which are subsidiaries of the same holding company; and".

(g) SUBSIDIARY DEFINED.—Section 13(f)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)(8)) is amended by adding after subparagraph (F) (as added by subsection (f) of this section) the following new subparagraph:

"(G) the term 'subsidiary' has the meaning given to such term in section 2(d) of the Bank Holding Company Act of 1956.". 12 USC 1841.

(h) WAIVER OF NOTICE AND HEARING REQUIREMENTS.— 101 STAT. 628

(1) APPLICATION RELATING TO ACQUISITIONS.—Section 3(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(b)) is amended—

(A) by striking out "(b) Upon" and inserting in lieu thereof "(b)(1) NOTICE AND HEARING REQUIREMENTS.—Upon"; and

(B) by adding at the end thereof the following new paragraph:

"(2) WAIVER IN CASE OF BANK IN DANGER OF CLOSING.—If the Board receives a certification described in section 13(f)(8)(D) of the Federal Deposit Insurance Act from the appropriate Federal or State chartering authority that a bank is in danger of closing, the Board may dispense with the notice and hearing requirements of paragraph (1) with respect to any application received by the Board relating to the acquisition of such bank, the bank holding company which controls such bank, or any other affiliated bank.".

Ante, p. 627.

(2) APPLICATION RELATING TO NONBANKING ACTIVITIES.—Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking out the semicolon at the end and inserting in lieu thereof a period and the following new sentences: "If an application is filed under this paragraph in connection with an application to make an acquisition pursuant to section 13(f) of the Federal Deposit Insurance Act, the Board may dispense with the notice and hearing requirement of this paragraph and the Board may approve or deny the application under this paragraph without notice or hearing. If an application described in the preceding sentence is approved, the Board shall publish in the Federal Register, not later than 7 days after such approval is granted, the order approving the application and a description of the nonbanking activities involved in the acquisition;".

Federal Register, publication.

(3) EARLY ANTITRUST REVIEW IN CASE OF EMERGENCY ACQUISITION OF FAILING BANK.—Section 11(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)) is amended—

(A) by striking out "(b) The Board" and inserting in lieu thereof "(b) ANTITRUST REVIEW.—

"(1) IN GENERAL.—The Board";

(B) by moving all that follows 2 ems to the right; and

(C) by adding at the end thereof the following new paragraph:

"(2) SECTION 13(f) CASES.—(A) If—

"(i) the Federal Deposit Insurance Corporation learns that a bank insured by such Corporation is in danger of closing; and

"(ii) the Corporation is considering assisting the acquisition of such bank and its affiliated banks by another bank or holding company under section 13(f) of the Federal Deposit Insurance Act and such acquisition is subject to the approval of the Board under section 3 of this Act,

the Corporation shall immediately notify the Board of such facts.

"(B) Upon receipt of notice from the Federal Deposit Insurance Corporation under subparagraph (A) or at such earlier time as deemed appropriate by the Board, the Board shall immediately notify the Attorney General of the United States of the facts concerning the possible acquisition.

101 STAT. 629

"(C) Within 5 days of receiving notice under subparagraph (B), the Attorney General shall notify the Board in writing of the Attorney General's preliminary finding as to the consistency of the possible acquisition with the antitrust laws.

"(D) The Board may reduce or eliminate the post-approval waiting period established under paragraph (1) for an acquisition to which this paragraph applies, except that such period may not be eliminated or reduced to less than 5 days without the concurrence of the Attorney General.".

(i) TECHNICAL AND CONFORMING AMENDMENTS.—Section 13(f) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)) is amended—

(1) in paragraph (5), by striking out "to permit"; and
(2) in paragraph (6)(A)—
(A) by striking out "where the closed bank" and inserting in lieu thereof "where the bank"; and
(B) by striking out "in-State bank holding company" and inserting in lieu thereof "in-State holding company".

SEC. 503. BRIDGE BANKS.

(a) ESTABLISHMENT OF BRIDGE BANKS.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended—
(1) in subsection (h) by striking out "(h) As soon as" and inserting in lieu thereof "(h) NEW BANKS.—(1) As soon as";
(2) by redesignating subsections (i), (j), (k), and (l) as paragraphs (2), (3), (4), and (5) of subsection (h), respectively; and
(3) by inserting after subsection (h)(5) (as redesignated by paragraph (2)) the following new subsection:

"(i) BRIDGE BANKS.—
"(1) ESTABLISHMENT.—When an insured bank is closed, the Corporation, in the Corporation's discretion and subject to the conditions established in paragraph (2), may establish a bridge bank to—
"(A) assume the deposits of the closed bank;
"(B) assume such other liabilities of the closed bank as the Corporation, in the Corporation's discretion, may determine to be appropriate;
"(C) purchase such assets of the closed bank as the Corporation, in the Corporation's discretion, may determine to be appropriate; and
"(D) perform any other temporary function which the Corporation may prescribe in accordance with this Act.
"(2) CONDITIONS.—A bridge bank may be established under paragraph (1) only if the Board of Directors determines that—
"(A) the amount which is reasonably necessary to organize and operate such bridge bank will not exceed the amount which is reasonably necessary to save the cost of liquidating, including paying the insured accounts of, the closed bank or banks;
"(B) the continued operation of such insured bank is essential to provide adequate banking services in the community where such bank is located; or
"(C) that the continued operation of such insured bank is in the best interest of the depositors of the closed bank and the public.
"(3) TRANSFER OF ASSETS AND LIABILITIES.—
"(A) IN GENERAL.—Upon the organization of a bridge bank pursuant to this subsection, the Corporation, as receiver, or any other receiver appointed with respect to the closed insured bank may, subject to the approval of any such transfer by a court of competent jurisdiction, transfer any assets and liabilities of the closed insured bank to the bridge bank. 101 STAT. 630
"(B) INTENT OF CONGRESS RELATING TO CONTINUING OPERATIONS.—It is the intent of the Congress that, in order to prevent unnecessary hardship or losses to the customers of the closed bank with respect to which a bridge bank is established, especially creditworthy farmers, small businesses, and households, the Corporation should—
"(i) continue to honor commitments made by the closed bank to creditworthy customers, and
"(ii) not interrupt or terminate adequately secured loans which are transferred under subparagraph (A) and are being repaid by the debtor in accordance with the terms of the loan instrument.
"(4) ORGANIZATION.—
"(A) ARTICLES OF ASSOCIA-

tion and the organization certificate of a bridge bank shall be executed by representatives designated by the Corporation.

"(B) INSURED NATIONAL BANK.—Each bridge bank shall be a national bank and shall be insured from the time of the organization of the bridge bank.

"(C) MANAGEMENT.—Each bridge bank shall be under the management of a board of directors consisting of 5 members appointed by the Board of Directors of the Corporation.

"(5) POWERS OF BRIDGE BANKS.—Each bridge bank established under this subsection shall have all corporate powers of, and be subject to the same provisions of law as, a national bank, except that—

"(A) the Corporation may—

"(i) remove the directors of any bridge bank;

"(ii) fix the compensation of members of the board of directors of any bridge bank; and

"(iii) waive any requirement established under section 5145, 5146, 5147, 5148, or 5149 of the Revised Statutes (relating to directors of national banks) or section 31 of the Banking Act of 1933 which would otherwise be applicable with respect to directors of a bridge bank by operation of paragraph (4)(B);

12 USC 71-75.
12 USC 71a.

"(B) the Corporation may indemnify the directors of a bridge bank on such terms as the Corporation determines to be appropriate;

"(C) no requirement under section 5138 of the Revised Statutes or any other provision of law relating to the capital of a national bank shall apply with respect to any bridge bank;

12 USC 51.

"(D) the Comptroller of the Currency may establish a limitation on the extent to which any person may become indebted to any bridge bank without regard to the amount of the bank's capital or surplus;

"(E) the board of directors of the bridge bank shall elect a chairperson who shall also serve in the position of chief executive officer;

101 STAT. 631

"(F) no bridge bank shall be required to purchase stock of any Federal Reserve bank; and

"(G) the Comptroller of the Currency may waive any requirement for a fidelity bond.

"(6) CAPITAL.—

"(A) NO CAPITAL REQUIRED.—The Corporation shall not be required to—

"(i) issue capital stock on behalf of any bridge bank established under this subsection; or

"(ii) purchase any capital stock of any bridge bank.

"(B) OPERATING FUNDS IN LIEU OF CAPITAL.—Upon the organization of a bridge bank, and thereafter as the Board of Directors may in its discretion deem necessary or advisable, the Corporation shall promptly make available to the bridge bank, upon such terms and conditions and in such form and amounts as the Board of Directors may prescribe, sufficient funds for the bridge bank to operate.

"(C) AUTHORITY TO ISSUE CAPITAL STOCK.—Whenever in the judgment of the Board of Directors it is desirable to do so, the Corporation shall cause capital stock of any bridge bank to be issued and offered for sale on such terms and conditions as the Corporation determines to be appropriate and in an amount sufficient (in the discretion of the Corporation) to make possible the conduct of the business of the bridge bank on a sound basis.

"(7) NO FEDERAL STATUS.—

"(A) AGENCY STATUS.—A bridge bank is not an agency, establishment, or instrumentality of the United States.

"(B) EMPLOYEE STATUS.—Directors, officers, employees, or agents of the bridge bank are not officers or employees of the United States for purposes of title 5, United States Code, or any other provision of law.

"(8) ASSISTANCE AUTHORIZED.—The Corporation may, in its discretion, provide assistance under section 13(c) to facilitate the sale or merger of the bridge bank with another insured depository institution in the same manner and to the same extent as such assistance may be provided under such section with respect to a closed insured bank. 12 USC 1873.

"(9) ACQUISITION BY OUT-OF-STATE BANK HOLDING COMPANY.—Any depository institution, including an out-of-State bank, or any out-of-State holding company may acquire and retain the shares or assets of, or otherwise acquire and retain a bridge bank which has assumed the insured deposits of one or more closed banks which had total assets aggregating $500,000,000 or more (determined in the manner provided in section 13(f)(11) at the time such insured bank was closed) in the same manner and to the same extent as such depository institution or such out-of-State holding company may acquire a closed insured bank under section 13(f)(2).

"(10) TERMINATION OF BRIDGE BANK.—

"(A) IN GENERAL.—A bridge bank shall terminate upon the occurrence of the earliest of the following:

"(i) The bridge bank merges or consolidates with another bank that is not a bridge bank.

"(ii) The bridge bank sells all or substantially all of the stock of the bridge bank other than to the Corporation or to another bridge bank.

101 STAT. 632

"(iii) A holding company or another bank that is not a bridge bank assumes all, or substantially all of the deposits or other liabilities of a bridge bank.

"(iv) A period of 2 years following the date the bridge bank was organized expires without any other disposition of the assets and liabilities of the bank having occurred.

"(B) EXTENSION ALLOWED FOR 1 YEAR.—If the Board of Directors finds, after consultation with the Comptroller of the Currency, that an extension of time for winding up the affairs of the bank is in the best interest of the depositors of the closed bank and the public, the Corporation may extend the time period specified in subparagraph (A)(iv) for not to exceed one year.

"(11) 2 OR MORE BANKS.—The Corporation, in the Corporation's discretion, may establish a bridge bank under this subsection to assume the deposits of, assume any other liabilities of, and purchase any assets of 2 or more closed banks.".

(b) DEFINITIONS.—Section 3(i) of the Federal Deposit Insurance Act (12 U.S.C. 1813(i)) is amended to read as follows:

"(i) NEW BANK AND BRIDGE BANK DEFINED.—

"(1) NEW BANK.—The term 'new bank' means a new national bank, other than a bridge bank, organized by the Corporation in accordance with section 11(h). *Ante*, p. 629.

"(2) BRIDGE BANK.—The term 'bridge bank' means a new national bank organized by the Corporation in accordance with section 11(i).".

SEC. 504. CONVERSIONS.

(a) AMENDMENT TO THE NATIONAL HOUSING ACT.—Section 403 of the National Housing Act (12 U.S.C. 1726) is amended by adding at the end thereof the following:

"(e) If, upon application, and pursuant to a plan of conversion to an institution of a type eligible to be an insured institution, the Corporation, in its discretion, determines to grant insurance of accounts to a savings bank that is an insured bank (as the term

'insured bank' is defined in section 3(h) of the Federal Deposit Insurance Act), such insurance shall become effective at such time as the Corporation stipulates, at which time such institution automatically shall lose its status as such an insured bank. No change of deposit insurance agencies from the Federal Deposit Insurance Corporation to the Corporation shall be treated, for the purposes of section 18(i) of the Federal Deposit Insurance Act, as involving a conversion to a noninsured bank or institution, except that the Corporation shall provide the Federal Deposit Insurance Corporation with notification of any application that, if granted, would involve such a change of deposit insurance agencies, shall consult with the Corporation before disposing of the application, and shall provide the Federal Deposit Insurance Corporation with notification of the determination with respect to such application.".

Infra.

(b) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) SECTION 18(c) APPLICABILITY.—Section 18(c)(12) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(12)) is amended to read as follows:

"(12) The provisions of this subsection shall not apply to any transaction where the acquiring, assuming, or resulting institution is an insured Federal savings bank or an institution insured by the Federal Savings and Loan Insurance Corporation, except that any insured bank involved in the transaction shall notify the Corporation in writing at least 30 days prior to consummation of the transaction and, if any approval by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation is required in connection therewith, such approving authority shall provide the Corporation with notification of the application for approval, shall consult with the Corporation before disposing of the application, and shall provide notification to the Corporation of the determination with respect to said application.".

101 STAT. 633

Ante, p. 632.

(2) SECTION 18(i) APPLICABILITY.—Section 18(i) of such Act is amended by adding at the end thereof the following:

"(5) Nothing in this subsection shall apply to a conversion of an insured bank to an insured institution pursuant to section 403(e) of the National Housing Act (12 U.S.C. 1726(e)).".

SEC. 505. FEDERAL DEPOSITORY INSTITUTIONS REGULATORY AGENCIES NOT SUBJECT TO APPORTIONMENT OF FUNDS PROVISIONS.

(a) FEDERAL DEPOSIT INSURANCE CORPORATION.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by adding at the end thereof the following:

"(9) APPORTIONMENT.—Notwithstanding any other provision of law, amounts received pursuant to any assessment under this section and any other amounts received by the Corporation shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.".

(b) THE COMPTROLLER OF THE CURRENCY.—The second paragraph of section 5240 of the Revised Statutes (12 U.S.C. 481) is amended by inserting after the fifth sentence the following: "Such funds shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.".

31 USC 1501 *et seq.*

(c) THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION.—Section 404 of the National Housing Act (12 U.S.C. 1727) is amended by adding at the end thereof the following:

"(k) APPORTIONMENT.—Notwithstanding any other provision of law, amounts received by the Corporation pursuant to any assessment under this Act, deposits required under this section and any other moneys received by the Corporation shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.".

(d) THE FEDERAL HOME LOAN BANK BOARD.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 19 (12 U.S.C. 1439) the following:

"SEC. 12A. APPORTIONMENT. 12 USC 1439-1.

"Notwithstanding any other provision of law, amounts received pursuant to any assessment under this Act and any other moneys received by the Board shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.".

(e) THE NATIONAL CREDIT UNION ADMINISTRATION.—Title I of the Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by adding at the end thereof the following:

"SEC. 128. APPORTIONMENT. 12 USC 1772b.

"Notwithstanding any other provision of law, funds received by the Board pursuant to any method provided by this Act, and interest, dividend, or other income thereon, shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.". 31 USC 1501 *et seq.*

101 STAT. 634

SEC. 506. FEDERAL DEPOSITORY INSTITUTIONS REGULATORY AGENCIES NOT SUBJECT TO SEQUESTRATION.

(a) IN GENERAL.—Paragraph (1) of section 255(g) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended— 2 USC 905.

(1) by inserting after the item relating to compensation of the President the following new item:

"Comptroller of the Currency;";

(2) by inserting after the item relating to the exchange stabilization fund the following new items:

"Federal Deposit Insurance Corporation;

"Federal Home Loan Bank Board;

"Federal Home Loan Bank Board, Federal Savings and Loan Insurance Corporation;"; and

(3) by inserting after the item relating to intragovernmental funds the following new items:

"National Credit Union Administration;

"National Credit Union Administration, central liquidity facility;

"National Credit Union Administration, credit union share insurance fund;".

(b) CERTAIN EXPENSES.—Section 256(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end thereof the following new paragraph: 2 USC 906.

"(4) Notwithstanding any other provision of law, this subsection shall not apply with respect to the following:

"(A) Comptroller of the Currency.

"(B) Federal Deposit Insurance Corporation.

"(C) Federal Home Loan Bank Board.

"(D) Federal Savings and Loan Insurance Corporation.

"(E) National Credit Union Administration.

"(F) National Credit Union Administration, central liquidity facility.".

SEC. 507. LIQUIDATION PROCEEDINGS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (i) (as added by section 503(a)(3) of this title) the following new subsection:

"(j) CONDITIONS APPLICABLE TO LIQUIDATION PROCEEDINGS.—

"(1) CONSIDERATION OF LOCAL ECONOMIC IMPACT REQUIRED.—The Corporation shall fully consider the adverse economic impact on local communities, including businesses and farms, of actions to be taken by it during the administration and liquidation of loans of a closed bank.

"(2) ACTIONS TO ALLEVIATE ADVERSE ECONOMIC IMPACT TO BE CONSIDERED.—The actions which the Corporation shall consider include the release of proceeds from the sale of products and services for family living and business expenses and shortening

the undue length of the decisionmaking process for the acceptance of offers of settlement contingent upon third party financing.

"(3) GUIDELINES REQUIRED.—The Corporation shall adopt and publish procedures and guidelines to minimize adverse economic effects caused by its actions on individual debtors in the community.".

101 STAT. 635

SEC. 508. CAPITAL POOLS.

(a) FINDINGS.—The Congress hereby finds that—

(1) the Federal Deposit Insurance Corporation has the statutory authority to engage in open bank assistance for failing banks under section 13(c) of the Federal Deposit Insurance Act to minimize losses to the insurance fund and to provide for the stability of the community;

12 USC 1873.

(2) communities in depressed regions of the Nation have had increasing difficulty in raising capital to infuse into locally operated, failing banks;

(3) States have the authority to establish capital pools to supplement Federal Deposit Insurance Corporation funds and outside capital in arranging open banks assistance plans; and

(4) it is not in the public interest to have a fire sale of assets acquired by the Federal Deposit Insurance Corporation as a part of their acquisitions of nonperforming loans of failed banks.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Federal Deposit Insurance Corporation should—

(1) exercise its discretionary authority to work with States which authorize capital pools described in subsection (a)(3) to save community banks during this time of great economic distress in certain regions of the country; and

(2) use its discretionary authority to negotiate sale of loans in the Corporation's capacity as receiver for a closed insured bank to banks in the area in which such closed bank is located in order to prevent further asset devaluation.

SEC. 509. PERMANENT EXTENSION OF CERTAIN TEMPORARY PROVISIONS OF LAW; 5-YEAR EXTENSION OF NET WORTH CERTIFICATES.

(a) PERMANENT EXTENSION.—Part D of title I of the Garn-St Germain Depository Institutions Act of 1982 is repealed.

12 USC 1464 note.

(b) 5-YEAR EXTENSION OF NET WORTH CERTIFICATES.—Section 206(a) of such Act (12 U.S.C. 1729 note) is amended by striking out "October 13, 1986" and inserting in lieu thereof "October 13, 1991".

12 USC 1729, 1823.

(c) PRIOR AMENDMENTS NOT EFFECTIVE.—No amendment made by part D of title I or section 206 of the Garn-St Germain Depository Institutions Act of 1982, as in effect before the date of the enactment of this Act, to any other provision of law shall be deemed to have taken effect before the date of the enactment of this Act and any such provision of law shall be in effect as if no such amendment had been made before such date of enactment.

12 USC 1464 note.

12 USC 1729, 1823.

TITLE VI—EXPEDITED FUNDS AVAILABILITY

Expedited Funds Availability Act. 12 USC 4001 note.

SEC. 601. SHORT TITLE.

This title may be cited as the "Expedited Funds Availability Act".

SEC. 602. DEFINITIONS.

12 USC 4001.

For purposes of this title—

101 STAT. 636

(1) ACCOUNT.—The term "account" means a demand deposit account or other similar transaction account at a depository institution.

(2) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(3) BUSINESS DAY.—The term "business day" means any day other than a Saturday, Sunday, or legal holiday.

(4) CASH.—The term "cash" means United States coins and currency, including Federal Reserve notes.

(5) CASHIER'S CHECK.—The term "cashier's check" means any check which—

(A) is drawn on a depository institution;

(B) is signed by an officer or employee of such depository institution; and

(C) is a direct obligation of such depository institution.

(6) CERTIFIED CHECK.—The term "certified check" means any check with respect to which a depository institution certifies that—

(A) the signature on the check is genuine; and

(B) such depository institution has set aside funds which—

(i) are equal to the amount of the check; and

(ii) will be used only to pay such check.

(7) CHECK.—The term "check" means any negotiable demand draft drawn on or payable through an office of a depository institution located in the United States. Such term does not include noncash items.

(8) CHECK CLEARINGHOUSE ASSOCIATION.—The term "check clearinghouse association" means any arrangement by which participant depository institutions exchange deposited checks on a local basis, including an entire metropolitan area, without using the check processing facilities of the Federal Reserve System.

(9) CHECK PROCESSING REGION.—The term "check processing region" means the geographical area served by a Federal Reserve bank check processing center or such larger area as the Board may prescribe by regulations.

(10) CONSUMER ACCOUNT.—The term "consumer account" means any account used primarily for personal, family, or household purposes.

(11) DEPOSITORY CHECK.—The term "depository check" means any cashier's check, certified check, teller's check, and any other functionally equivalent instrument as determined by the Board.

(12) DEPOSITORY INSTITUTION.—The term "depository institution" has the meaning given such term in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act. Such term also includes an office, branch, or agency of a foreign bank located in the United States. 12 USC 461.

(13) LOCAL ORIGINATING DEPOSITORY INSTITUTION.—The term "local originating depository institution" means any originating depository institution which is located in the same check processing region as the receiving depository institution.

(14) NONCASH ITEM.—The term "noncash item" means—

(A) a check or other demand item to which a passbook, certificate, or other document is attached;

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(B) a check or other demand item which is accompanied by special instructions, such as a request for special advise of payment or dishonor; or

(C) any similar item which is otherwise classified as a noncash item in regulations of the Board.

(15) NONLOCAL ORIGINATING DEPOSITORY INSTITUTION.—The term "nonlocal originating depository institution" means any originating depository institution which is not a local depository institution.

(16) PROPRIETARY ATM.—The term "proprietary ATM" means an automated teller machine which is—

(A) located—

(i) at or adjacent to a branch of the receiving depository institution; or

(ii) in close proximity, as defined by the Board, to a branch of the receiving depository institution; or

(B) owned by, operated exclusively for, or operated by the receiving depository institution.

(17) ORIGINATING DEPOSITORY INSTITUTION.—The term "originating depository institution" means the branch of a depository institution on which a check is drawn.

(18) NONPROPRIETARY ATM.—The term "nonproprietary ATM" means an automated teller machine which is not a proprietary ATM.

(19) PARTICIPANT.—The term "participant" means a depository institution which—

(A) is located in the same geographic area as that served by a check clearinghouse association; and

(B) exchanges checks through the check clearinghouse association, either directly or through an intermediary.

(20) RECEIVING DEPOSITORY INSTITUTION.—The term "receiving depository institution" means the branch of a depository institution or the proprietary ATM in which a check is first deposited.

(21) STATE.—The term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands.

(22) TELLER'S CHECK.—The term "teller's check" means any check issued by a depository institution and drawn on another depository institution.

(23) UNITED STATES.—The term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(24) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State.

(25) WIRE TRANSFER.—The term "wire transfer" has such meaning as the Board shall prescribe by regulations.

12 USC 4002.

SEC. 603. EXPEDITED FUNDS AVAILABILITY SCHEDULES.

(a) NEXT BUSINESS DAY AVAILABILITY FOR CERTAIN DEPOSITS.—

(1) CASH DEPOSITS; WIRE TRANSFERS.—Except as provided in subsection (e) and in section 604, in any case in which—

(A) any cash is deposited in an account at a receiving depository institution staffed by individuals employed by such institution, or

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(B) funds are received by a depository institution by wire transfer for deposit in an account at such institution,

such cash or funds shall be available for withdrawal not later than the business day after the business day on which such cash is deposited or such funds are received for deposit.

State and local governments.

(2) GOVERNMENT CHECKS; CERTAIN OTHER CHECKS.—Funds deposited in an account at a depository institution by check shall be available for withdrawal not later than the business day after the business day on which such funds are deposited in the case of—

(A) a check which—

(i) is drawn on the Treasury of the United States; and

(ii) is endorsed only by the person to whom it was issued;

(B) a check which—

(i) is drawn by a State;

(ii) is deposited in a receiving depository institution which is located in such State and is staffed by individuals employed by such institution;

(iii) is deposited with a special deposit slip which indicates it is a check drawn by a State; and

(iv) is endorsed only by the person to whom it was issued;

(C) a check which—

(i) is drawn by a unit of general local government;

(ii) is deposited in a receiving depository institution which is located in the same State as such unit of general local government and is staffed by individuals employed by such institution;

(iii) is deposited with a special deposit slip which indicates it is a check drawn by a unit of general local government; and

(iv) is endorsed only by the person to whom it was issued;

(D) the first $100 deposited by check or checks on any one business day;

(E) a check deposited in a branch of a depository institution and drawn on the same or another branch of the same depository institution if both such branches are located in the same State or the same check processing region;

(F) a cashier's check, certified check, teller's check, or depository check which—

(i) is deposited in a receiving depository institution which is staffed by individuals employed by such institution;

(ii) is deposited with a special deposit slip which indicates it is a cashier's check, certified check, teller's check, or depository check, as the case may be; and

(iii) is endorsed only by the person to whom it was issued.

(b) PERMANENT SCHEDULE.—

(1) AVAILABILITY OF FUNDS DEPOSITED BY LOCAL CHECKS.—Subject to paragraph (3) of this subsection, subsections (a)(2), (d), and (e) of this section, and section 604, not more than 1 business day shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a local originating depository institution and the business day on which the funds involved are available for withdrawal. 101 STAT. 639

(2) AVAILABILITY OF FUNDS DEPOSITED BY NONLOCAL CHECKS.—Subject to paragraph (3) of this subsection, subsections (a)(2), (d), and (e) of this section, and section 604, not more than 4 business days shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a nonlocal originating depository institution and the business day on which such funds are available for withdrawal.

(3) TIME PERIOD ADJUSTMENTS FOR CASH WITHDRAWAL OF CERTAIN CHECKS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), funds deposited in an account in a depository institution by check (other than a check described in subsection (a)(2)) shall be available for cash withdrawal not later than the business day after the business day on which such funds otherwise are available under paragraph (1) or (2).

(B) 5 P.M. CASH AVAILABILITY.—Not more than $400 (or the maximum amount allowable in the case of a withdrawal from an automated teller machine but not more than $400) of funds deposited by one or more checks to which this paragraph applies shall be available for cash withdrawal not later than 5 o'clock post meridian of the business day on which such funds are available under paragraph (1) or (2). If funds deposited by checks described in both paragraph (1) and paragraph (2) become available for cash withdrawal under this paragraph on the same business day, the limitation contained in this subparagraph shall apply to the aggregate amount of such funds.

(C) $100 AVAILABILITY.—Any amount available for withdrawal under this paragraph shall be in addition to the amount available under subsection (a)(2)(D).

(4) APPLICABILITY.—This subsection shall apply with respect to funds deposited by check in an account at a depository institution on or after September 1, 1990, except that the Board may, by regulation, make this subsection or any part of this subsection applicable earlier than September 1, 1990.

(c) TEMPORARY SCHEDULE.—

(1) AVAILABILITY OF LOCAL CHECKS.—

(A) IN GENERAL.—Subject to subparagraph (B) of this paragraph, subsections (a)(2), (d), and (e) of this section, and section 604, not more than 2 business days shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a local originating depository institution and the business day on which such funds are available for withdrawal.

(B) TIME PERIOD ADJUSTMENT FOR CASH WITHDRAWAL OF CERTAIN CHECKS.—

(i) IN GENERAL.—Except as provided in clause (ii), funds deposited in an account in a depository institution by check drawn on a local depository institution that is not a participant in the same check clearinghouse association as the receiving depository institution (other than a check described in subsection (a)(2)) shall be available for cash withdrawal not later than the business day after the business day on which such funds otherwise are available under subparagraph (A).

101 STAT. 640

(ii) 5 P.M. CASH AVAILABILITY.—Not more than $400 (or the maximum amount allowable in the case of a withdrawal from an automated teller machine but not more than $400) of funds deposited by one or more checks to which this subparagraph applies shall be available for cash withdrawal not later than 5 o'clock post meridian of the business day on which such funds are available under subparagraph (A).

(iii) $100 AVAILABILITY.—Any amount available for withdrawal under this subparagraph shall be in addition to the amount available under subsection (a)(2)(D).

(2) AVAILABILITY OF NONLOCAL CHECKS.—Subject to subsections (a)(2), (d), and (e) of this section and section 604, not more than 6 business days shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a nonlocal originating depository institution and the business day on which such funds are available for withdrawal.

(3) APPLICABILITY.—This subsection shall apply with respect to funds deposited by check in an account at a depository institution after August 31, 1988, and before September 1, 1990, except as may be otherwise provided under subsection (b)(4).

(d) TIME PERIOD ADJUSTMENTS.—

Regulations.

(1) REDUCTION GENERALLY.—Notwithstanding any other provision of law, the Board shall, by regulation, reduce the time periods established under subsections (b), (c), and (e) to as short a time as possible and equal to the period of time achievable under the improved check clearing system for a receiving depository institution to reasonably expect to learn of the nonpayment of most items for each category of checks.

(2) EXTENSION FOR CERTAIN DEPOSITS IN NONCONTIGUOUS STATES OR TERRITORIES.—Notwithstanding any other provision of law, any time period established under subsection (b), (c), or (e) shall be extended by 1 business day in the case of any deposit which is both—

Alaska.
Hawaii.
Puerto Rico.
Virgin Islands.

(A) deposited in an account at a depository institution which is located in Alaska, Hawaii, Puerto Rico, or the Virgin Islands; and

(B) deposited by a check drawn on an originating depository institution which is not located in the same State, commonwealth, or territory as the receiving depository institution.

(e) DEPOSITS AT AN ATM.—

(1) NONPROPRIETARY ATM—TEMPORARY SCHEDULE.—

(A) IN GENERAL.—Not more than 6 business days shall intervene between the business day a deposit described in subparagraph (B) is made at a nonproprietary automated teller machine (for deposit in an account at a depository institution) and the business day on which funds from such deposit are available for withdrawal.

(B) DEPOSITS DESCRIBED IN THIS PARAGRAPH.—A deposit is described in this subparagraph if it is—

(i) a cash deposit;

(ii) a deposit made by a check described in subsection (a)(2);

101 STAT. 641

(iii) a deposit made by a check drawn on a local originating depository institution (other than a check described in subsection (a)(2)); or

(iv) a deposit made by a check drawn on a nonlocal originating depository institution (other than a check described in subsection (a)(2)).

(C) APPLICABILITY.—This paragraph shall apply with respect to funds deposited at a nonproprietary automated teller machine after August 31, 1988, and before September 1, 1990.

(2) NONPROPRIETARY ATM—PERMANENT SCHEDULE.—

(A) CASH, GOVERNMENT CHECKS, AND LOCAL CHECKS.—Not more than 1 business day shall intervene between the business day on which a deposit described in paragraph (1)(B) (i), (ii), or (iii) is made at a nonproprietary automated teller machine (for deposit in an account at a depository institution) and the business day on which funds from such deposit are available for withdrawal.

(B) NONLOCAL CHECKS.—Not more than 4 business days shall intervene between the business day a deposit described in paragraph (1)(B)(iv) is made at a nonproprietary automated teller machine (for deposit in an account at a depository institution) and the business day on which funds from such deposit are available for withdrawal.

(C) DETERMINATION OF "LOCAL ORIGINATING DEPOSITORY INSTITUTION".—For the purpose of this paragraph, a check is drawn on a local originating depository institution if that depository institution is located in the same check processing region as the receiving nonproprietary ATM.

(D) APPLICABILITY.—This paragraph shall apply with respect to funds deposited at a nonproprietary automated teller machine on or after September 1, 1990.

(3) PROPRIETARY ATM—TEMPORARY AND PERMANENT SCHEDULES.—The provisions of subsections (a), (b), and (c) shall apply with respect to any funds deposited at a proprietary automated teller machine for deposit in an account at a depository institution.

(4) STUDY AND REPORT ON ATM'S.—The Board shall, either directly or through the Consumer Advisory Council, establish and maintain a dialogue with depository institutions and their suppliers on the computer software and hardware available for use by automated teller machines, and shall, not later than September 1 of each of the first 3 calendar years beginning after the date of the enactment of this title, report to the Congress regarding such software and hardware and regarding the potential for improving the processing of automated teller machine deposits.

(f) CHECK RETURN; NOTICE OF NONPAYMENT.—No provision of this

section shall be construed as requiring that, with respect to all checks deposited in a receiving depository institution—

(1) such checks be physically returned to such depository institution; or

(2) any notice of nonpayment of any such check be given to such depository institution within the times set forth in subsection (a), (b), (c), or (e) or in the regulations issued under any such subsection.

101 STAT. 642

12 USC 4003.

SEC. 604. SAFEGUARD EXCEPTIONS.

(a) NEW ACCOUNTS.—Notwithstanding section 603, in the case of any account established at a depository institution by a new depositor, the following provisions shall apply with respect to any deposit in such account during the 30-day period (or such shorter period as the Board may establish) beginning on the date such account is established—

(1) NEXT BUSINESS DAY AVAILABILITY OF CASH AND CERTAIN ITEMS.—Except as provided in paragraph (3), in the case of—

(A) any cash deposited in such account;

(B) any funds received by such depository institution by wire transfer for deposit in such account;

(C) any funds deposited in such account by cashier's check, certified check, teller's check, depository check, or traveler's check; and

(D) any funds deposited by a government check which is described in subparagraph (A), (B), or (C) of section 603(a)(2),

such cash or funds shall be available for withdrawal on the business day after the business day on which such cash or funds are deposited or, in the case of a wire transfer, on the business day after the business day on which such funds are received for deposit.

(2) AVAILABILITY OF OTHER ITEMS.—In the case of any funds deposited in such account by a check (other than a check described in subparagraph (C) or (D) of paragraph (1)), the availability for withdrawal of such funds shall not be subject to the provisions of section 603(b), 603(c), or paragraphs (1) and (2) of section 603(e).

(3) LIMITATION RELATING TO CERTAIN CHECKS IN EXCESS OF $5,000.—In the case of funds deposited in such account during such period by checks described in subparagraph (C) or (D) of paragraph (1) the aggregate amount of which exceeds $5,000—

(A) paragraph (1) shall apply only with respect to the first $5,000 of such aggregate amount; and

(B) not more than 8 business days shall intervene between the business day on which any such funds are deposited and the business day on which such excess amount shall be available for withdrawal.

(b) LARGE OR REDEPOSITED CHECKS; REPEATED OVERDRAFTS.—The Board may, by regulation, establish reasonable exceptions to any time limitation established under subsection (b), (c), or (e) of section 603 for—

(1) the amount of deposits by one or more checks that exceeds the amount of $5,000 in any one day;

(2) checks that have been returned unpaid and redeposited; and

(3) deposit accounts which have been overdrawn repeatedly.

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—In accordance with regulations which the Board shall prescribe, subsections (a)(2)(F), (b), (c), and (e) of section 603 shall not apply with respect to any check deposited in an account at a depository institution if the receiving depository institution has reasonable cause to believe that the check is uncollectible from the originating depository institution. For purposes of the preceding sentence, reasonable cause to believe requires the existence of facts which would cause a well-

grounded belief in the mind of a reasonable person. Such reasons shall be included in the notice required under subsection (f). 101 STAT. 643

(2) BASIS FOR DETERMINATION.—No determination under this subsection may be based on any class of checks or persons.

(3) OVERDRAFT FEES.—If the receiving depository institution determines that a check deposited in an account is a check described in paragraph (1), the receiving depository institution shall not assess any fee for any subsequent overdraft with respect to such account, if—

(A) the depositor was not provided with the written notice required under subsection (f) (with respect to such determination) at the time the deposit was made;

(B) the overdraft would not have occurred but for the fact that the funds so deposited are not available; and

(C) the amount of the check is collected from the originating depository institution.

(4) COMPLIANCE.—Each agency referred to in section 610(a) shall monitor compliance with the requirements of this subsection in each regular examination of a depository institution and shall describe in each report to the Congress the extent to which this subsection is being complied with. For the purpose of this paragraph, each depository institution shall retain a record of each notice provided under subsection (f) as a result of the application of this subsection.

(d) EMERGENCY CONDITIONS.—Subject to such regulations as the Board may prescribe, subsections (b), (c), and (e) of section 603 shall not apply to funds deposited by check in any receiving depository institution in the case of—

(1) any interruption of communication facilities;

(2) suspension of payments by another depository institution;

(3) any war; or

(4) any emergency condition beyond the control of the receiving depository institution,

if the receiving depository institution exercises such diligence as the circumstances require.

(e) PREVENTION OF FRAUD LOSSES.—

(1) IN GENERAL.—The Board may, by regulation or order, suspend the applicability of this title, or any portion thereof, to any classification of checks if the Board determines that—

(A) depository institutions are experiencing an unacceptable level of losses due to check-related fraud, and

(B) suspension of this title, or such portion of this title, with regard to the classification of checks involved in such fraud is necessary to diminish the volume of such fraud.

(2) SUNSET PROVISION.—No regulation prescribed or order issued under paragraph (1) shall remain in effect for more than 45 days (excluding Saturdays, Sundays, legal holidays, or any day either House of Congress is not in session).

(3) REPORT TO CONGRESS.—

(A) NOTICE OF EACH SUSPENSION.—Within 10 days of prescribing any regulation or issuing any order under paragraph (1), the Board shall transmit a report of such action to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. 101 STAT. 644

(B) CONTENTS OF REPORT.—Each report under subparagraph (A) shall contain—

(i) the specific reason for prescribing the regulation or issuing the order;

(ii) evidence considered by the Board in making the determination under paragraph (1) with respect to such regulation or order; and

(iii) specific examples of the check-related fraud giving rise to such regulation or order.

(f) NOTICE OF EXCEPTION; AVAILABILITY WITHIN REASONABLE TIME.—

(1) IN GENERAL.—If any exception contained in this section (other than subsection (a)) applies with respect to funds deposited in an account at a depository institution—

(A) the depository institution shall provide notice in the manner provided in paragraph (2) of—

(i) the day the funds shall be made available for withdrawal; and

(ii) the reason the exception was invoked; and

(B) except where other time periods are specifically provided in this title, the availability of the funds deposited shall be governed by the policy of the receiving depository institution, but shall not exceed a reasonable period of time as determined by the Board.

(2) TIME FOR NOTICE.—The notice required under paragraph (1)(A) with respect to a deposit to which an exception contained in this section applies shall be made by the time provided in the following subparagraphs:

(A) In the case of a deposit made in person by the depositor at the receiving depository institution, the depository institution shall immediately provide such notice in writing to the depositor.

(B) In the case of any other deposit (other than a deposit described in subparagraph (C)), the receiving depository institution shall mail the notice to the depositor not later than the close of the next business day following the business day on which the deposit is received.

(C) In the case of a deposit to which subsection (d) or (e) applies, notice shall be provided by the depository institution in accordance with regulations of the Board.

(3) SUBSEQUENT DETERMINATIONS.—If the facts upon which the determination of the applicability of an exception contained in subsection (b) or (c) to any deposit only become known to the receiving depository institution after the time notice is required under paragraph (2) with respect to such deposit, the depository institution shall mail such notice to the depositor as soon as practicable, but not later than the first business day following the day such facts become known to the depository institution.

12 USC 4004.

SEC. 605. DISCLOSURE OF FUNDS AVAILABILITY POLICIES.

(a) NOTICE FOR NEW ACCOUNTS.—Before an account is opened at a depository institution, the depository institution shall provide written notice to the potential customer of the specific policy of such depository institution with respect to when a customer may withdraw funds deposited into the customer's account.

101 STAT. 645

(b) PREPRINTED DEPOSIT SLIPS.—All preprinted deposit slips that a depository institution furnishes to its customers shall contain a summary notice, as prescribed by the Board in regulations, that deposited items may not be available for immediate withdrawal.

(c) MAILING OF NOTICE.—

(1) FIRST MAILING AFTER ENACTMENT.—In the first regularly scheduled mailing to customers occurring after the effective date of this section, but not more than 60 days after such effective date, each depository institution shall send a written notice containing the specific policy of such depository institution with respect to when a customer may withdraw funds deposited into such customer's account, unless the depository institution has provided a disclosure which meets the requirements of this section before such effective date.

(2) SUBSEQUENT CHANGES.—A depository institution shall send a written notice to customers at least 30 days before implementing any change to the depository institution's policy with respect to when customers may withdraw funds deposited into consumer accounts, except that any change which expedites the availability of such funds shall be disclosed not later than 30 days after implementation.

(3) UPON REQUEST.—Upon the request of any person, a depository institution shall provide or send such person a written notice containing the specific policy of such depository institution with respect to when a customer may withdraw funds deposited into a customer's account.

(d) POSTING OF NOTICE.—

(1) SPECIFIC NOTICE AT MANNED TELLER STATIONS.—Each depository institution shall post, in a conspicuous place in each location where deposits are accepted by individuals employed by such depository institution, a specific notice which describes the time periods applicable to the availability of funds deposited in a consumer account.

(2) GENERAL NOTICE AT AUTOMATED TELLER MACHINES.—In the case of any automated teller machine at which any funds are received for deposit in an account at any depository institution, the Board shall prescribe, by regulations, that the owner or operator of such automated teller machine shall post or provide a general notice that funds deposited in such machine may not be immediately available for withdrawal.

(e) NOTICE OF INTEREST PAYMENT POLICY.—If a depository institution described in section 606(b) begins the accrual of interest or dividends at a later date than the date described in section 606(a) with respect to all funds, including cash, deposited in an interest-bearing account at such depository institution, any notice required to be provided under subsections (a) and (c) shall contain a written description of the time at which such depository institution begins to accrue interest or dividends on such funds.

(f) MODEL DISCLOSURE FORMS.—

(1) PREPARED BY BOARD.—The Board shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this section and to aid customers by utilizing readily understandable language.

(2) USE OF FORMS TO ACHIEVE COMPLIANCE.—A depository institution shall be deemed to be in compliance with the requirements of this section if such institution—

(A) uses any appropriate model form or clause as published by the Board, or

101 STAT. 646

(B) uses any such model form or clause and changes such form or clause by—

(i) deleting any information which is not required by this title; or

(ii) rearranging the format.

(3) VOLUNTARY USE.—Nothing in this title requires the use of any such model form or clause prescribed by the Board under this subsection.

(4) NOTICE AND COMMENT.—Model disclosure forms and clauses shall be adopted by the Board only after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

Federal Register, publication.

SEC. 606. PAYMENT OF INTEREST.

12 USC 4005.

(a) IN GENERAL.—Except as provided in subsection (b) or (c) and notwithstanding any other provision of law, interest shall accrue on funds deposited in an interest-bearing account at a depository institution beginning not later than the business day on which the depository institution receives provisional credit for such funds.

(b) SPECIAL RULE FOR CREDIT UNIONS.—Subsection (a) shall not apply to an account at a depository institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act if the depository institution—

12 USC 461.

(1) begins the accrual of interest or dividends at a later date than the date described in subsection (a) with respect to all funds, including cash, deposited in such account; and

(2) provides notice of the interest payment policy in the manner required under section 605(e).

(c) EXCEPTION FOR CHECKS RETURNED UNPAID.—No provision of this title shall be construed as requiring the payment of interest or dividends on funds deposited by a check which is returned unpaid.

12 USC 4006.

SEC. 607. MISCELLANEOUS PROVISIONS.

(a) AFTER-HOURS DEPOSITS.—For purposes of this title, any deposit which is made on a Saturday, Sunday, legal holiday, or after the close of business on any business day shall be deemed to have been made on the next business day.

(b) AVAILABILITY AT START OF BUSINESS DAY.—Except as provided in subsections (b)(3) and (c)(1)(B) of section 603, if any provision of this title requires that funds be available for withdrawal on any business day, such funds shall be available for withdrawal at the start of such business day.

(c) EFFECT ON POLICIES OF DEPOSITORY INSTITUTIONS.—No provision of this title shall be construed as—

(1) prohibiting a depository institution from making funds available for withdrawal in a shorter period of time than the period of time required by this title; or

(2) affecting a depository institution's right—

(A) to accept or reject a check for deposit;

(B) to revoke any provisional settlement made by the depository institution with respect to a check accepted by such institution for deposit;

(C) to charge back the depositor's account for the amount of such check; or

101 STAT. 647

(D) to claim a refund of such provisional credit.

(d) PROHIBITION ON FREEZING CERTAIN FUNDS IN AN ACCOUNT.—In any case in which a check is deposited in an account at a depository institution and the funds represented by such check are not yet available for withdrawal pursuant to this title, the depository institution may not freeze any other funds in such account (which are otherwise available for withdrawal pursuant to this title) solely because the funds so deposited are not yet available for withdrawal.

(e) EMPLOYEE TRAINING ON AND COMPLIANCE WITH THE REQUIREMENTS OF THIS TITLE.—Each depository institution shall—

(1) take such actions as may be necessary fully to inform each employee (who performs duties subject to the requirements of this title) of the requirements of this title; and

(2) establish and maintain procedures reasonably designed to assure and monitor employee compliance with such requirements.

12 USC 4007.

SEC. 608. EFFECT ON STATE LAW.

(a) IN GENERAL.—Any law or regulation of any State in effect on September 1, 1989, which requires that funds deposited or received for deposit in an account at a depository institution chartered by such State be made available for withdrawal in a shorter period of time than the period of time provided in this title or in regulations prescribed by the Board under this title (as in effect on September 1, 1989) shall—

(1) supersede the provisions of this title and any regulations by the Board to the extent such provisions relate to the time by which funds deposited or received for deposit in an account shall be available for withdrawal; and

(2) apply to all federally insured depository institutions located within such State.

(b) OVERRIDE OF CERTAIN STATE LAWS.—Except as provided in subsection (a), this title and regulations prescribed under this title shall supersede any provision of the law of any State, including the Uniform Commercial Code as in effect in such State, which is inconsistent with this title or such regulations.

SEC. 609. REGULATIONS AND REPORTS BY BOARD. 12 USC 4008.

(a) IN GENERAL.—After notice and opportunity to submit comment in accordance with section 553(c) of title 5, United States Code, the Board shall prescribe regulations—

(1) to carry out the provisions of this title;

(2) to prevent the circumvention or evasion of such provisions; and

(3) to facilitate compliance with such provisions.

(b) REGULATIONS RELATING TO IMPROVEMENT OF CHECK PROCESSING SYSTEM.—In order to improve the check processing system, the Board shall consider (among other proposals) requiring, by regulation, that—

(1) depository institutions be charged based upon notification that a check or similar instrument will be presented for payment;

(2) the Federal Reserve banks and depository institutions provide for check truncation;

(3) depository institutions be provided incentives to return items promptly to the depository institution of first deposit; 101 STAT. 648

(4) the Federal Reserve banks and depository institutions take such actions as are necessary to automate the process of returning unpaid checks;

(5) each depository institution and Federal Reserve bank—

(A) place its endorsement, and other notations specified in regulations of the Board, on checks in the positions specified in such regulations; and

(B) take such actions as are necessary to—

(i) automate the process of reading endorsements; and

(ii) eliminate unnecessary endorsements;

(6) within one business day after an originating depository institution is presented a check (for more than such minimum amount as the Board may prescribe)—

(A) such originating depository institution determines whether it will pay such check; and

(B) if such originating depository institution determines that it will not pay such check, such originating depository institution directly notify the receiving depository institution of such determination;

(7) regardless of where a check is cleared initially, all returned checks be eligible to be returned through the Federal Reserve System;

(8) Federal Reserve banks and depository institutions participate in the development and implementation of an electronic clearinghouse process to the extent the Board determines, pursuant to the study under subsection (f), that such a process is feasible; and

(9) originating depository institutions be permitted to return unpaid checks directly to, and obtain reimbursement for such checks directly from, the receiving depository institution.

(c) REGULATORY RESPONSIBILITY OF BOARD FOR PAYMENT SYSTEM.—

(1) RESPONSIBILITY FOR PAYMENT SYSTEM.—In order to carry out the provisions of this title, the Board of Governors of the Federal Reserve System shall have the responsibility to regulate—

(A) any aspect of the payment system, including the receipt, payment, collection, or clearing of checks; and

(B) any related function of the payment system with respect to checks.

(2) REGULATIONS.—The Board shall prescribe such regulations as it may determine to be appropriate to carry out its responsibility under paragraph (1).

(d) REPORTS.—

(1) IMPLEMENTATION PROGRESS REPORTS.—

(A) REQUIRED REPORTS.—The Board shall transmit a report to both Houses of the Congress not later than 18, 30, and 48 months after the date of the enactment of this title.

(B) CONTENTS OF REPORT.—Each such report shall describe—

(i) the actions taken and progress made by the Board to implement the schedules established in section 603, and

(ii) the impact of this title on consumers and depository institutions.

101 STAT. 649

(2) EVALUATION OF TEMPORARY SCHEDULE REPORT.—

(A) REPORT REQUIRED.—The Board shall transmit a report to both Houses of the Congress not later than 2 years after the date of the enactment of this title regarding the effects the temporary schedule established under section 603(c) have had on depository institutions and the public.

(B) CONTENTS OF REPORT.—Such report shall also assess the potential impact the implementation of the schedule established in section 603(b) will have on depository institutions and the public, including an estimate of the risks to and losses of depository institutions and the benefits to consumers. Such report shall also contain such recommendations for legislative or administrative action as the Board may determine to be necessary.

(3) COMPTROLLER GENERAL EVALUATION REPORT.—Not later than 6 months after section 603(b) takes effect, the Comptroller General of the United States shall transmit a report to the Congress evaluating the implementation and administration of this title.

(e) CONSULTATION.—In prescribing regulations under subsections (a) and (b), the Board shall consult with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board.

(f) ELECTRONIC CLEARINGHOUSE STUDY.—

(1) STUDY REQUIRED.—The Board shall study the feasibility of modernizing and accelerating the check payment system through the development of an electronic clearinghouse process utilizing existing telecommunications technology to avoid the necessity of actual presentment of the paper instrument to a payor institution before such institution is charged for the item.

(2) CONSULTATION; FACTORS TO BE STUDIED.—In connection with the study required under paragraph (1), the Board shall—

(A) consult with appropriate experts in telecommunications technology; and

(B) consider all practical and legal impediments to the development of an electronic clearinghouse process.

(3) REPORT REQUIRED.—The Board shall report its conclusions to the Congress within 9 months of the date of the enactment of this title.

12 USC 4009.

SEC. 610. ADMINISTRATIVE ENFORCEMENT.

(a) ADMINISTRATIVE ENFORCEMENT.—Compliance with the requirements imposed under this title, including regulations prescribed by and orders issued by the Board of Governors of the Federal Reserve System under this title, shall be enforced under—

12 USC 1818.

(1) section 8 of the Federal Deposit Insurance Act in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board of Governors of the Federal Reserve System; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

12 USC 1464.
12 USC 1730.

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and section 17 of the Federal

Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and 12 USC 1437.

101 STAT. 650

(3) the Federal Credit Union Act, by the National Credit Union Administration Board with respect to any Federal credit union or insured credit union. 12 USC 1751.

(b) ADDITIONAL POWERS.—

(1) VIOLATION OF THIS TITLE TREATED AS VIOLATION OF OTHER ACTS.—For purposes of the exercise by any agency referred to in subsection (a) of this section of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act.

(2) ENFORCEMENT AUTHORITY UNDER OTHER ACTS.—In addition to its powers under any provision of law specifically referred to in subsection (a) of this section, each of the agencies referred to in such subsection may exercise, for purposes of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(c) ENFORCEMENT BY THE BOARD.—

(1) IN GENERAL.—Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a) of this section, the Board of Governors of the Federal Reserve System shall enforce such requirements.

(2) ADDITIONAL REMEDY.—If the Board determines that—

(A) any depository institution which is not a depository institution described in subsection (a), or

(B) any other person subject to the authority of the Board under this title, including any person subject to the authority of the Board under section 605(d)(2) or 609(c),

has failed to comply with any requirement imposed by this title or by the Board under this title, the Board may issue an order prohibiting any depository institution, any Federal Reserve bank, or any other person subject to the authority of the Board from engaging in any activity or transaction which directly or indirectly involves such noncomplying depository institution or person (including any activity or transaction involving the receipt, payment, collection, and clearing of checks and any related function of the payment system with respect to checks).

(d) PROCEDURAL RULES.—The authority of the Board to prescribe regulations under this title does not impair the authority of any other agency designated in this section to make rules regarding its own procedures in enforcing compliance with requirements imposed under this title.

SEC. 611. CIVIL LIABILITY. 12 USC 4010.

(a) CIVIL LIABILITY.—Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under this title or any regulation prescribed under this title with respect to any person other than another depository institution is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

101 STAT. 651

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 percent of the net worth of the depository institution involved; and

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) CLASS ACTION AWARDS.—In determining the amount of any award in any class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure of compliance was intentional.

(c) BONA FIDE ERRORS.—

(1) GENERAL RULE.—A depository institution may not be held liable in any action brought under this section for a violation of this title if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) EXAMPLES.—Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a depository institution's obligation under this title is not a bona fide error.

(d) JURISDICTION.—Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year after the date of the occurrence of the violation involved.

(e) RELIANCE ON BOARD RULINGS.—No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board of Governors of the Federal Reserve System, notwithstanding the fact that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) AUTHORITY TO ESTABLISH RULES REGARDING LOSSES AND LIABILITY AMONG DEPOSITORY INSTITUTIONS.—The Board is authorized to impose on or allocate among depository institutions the risks of loss and liability in connection with any aspect of the payment system, including the receipt, payment, collection, or clearing of checks, and any related function of the payment system with respect to checks.

101 STAT. 652

Liability under this subsection shall not exceed the amount of the check giving rise to the loss or liability, and, where there is bad faith, other damages, if any, suffered as a proximate consequence of any act or omission giving rise to the loss or liability.

SEC. 612. PARITY IN CLEARING.

(a) IN GENERAL.—Section 11A of the Federal Reserve Act (12 U.S.C. 248a) is amended by adding at the end thereof the following:

"(e) All depository institutions, as defined in section 19(b)(1) (12 U.S.C. 461(b)(1)), may receive for deposit and as deposits any evidences of transaction accounts, as defined by section 19(b)(1) (12 U.S.C. 461(b)(1)) from other depository institutions, as defined in section 19(b)(1) (12 U.S.C. 461(b)(1)) or from any office of any Federal Reserve bank without regard to any Federal or State law restricting the number or the physical location or locations of such depository institutions.".

12 USC 248a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this title.

SEC. 613. EFFECTIVE DATES.

12 USC 4001 note.

(a) DATE OF ENACTMENT.—Except as provided in subsection (b), this title shall take effect on the date of the enactment of this title.

(b) 1 YEAR AFTER DATE OF ENACTMENT.—Sections 603, 604, 605, 606, 610, and 611 shall take effect on September 1, 1988.

TITLE VII—CREDIT UNION AMENDMENTS

Credit Union Amendments of 1987.

SEC. 701. SHORT TITLE.

12 USC 1751 note.

This title may be cited as the "Credit Union Amendments of 1987".

SEC. 702. SECOND MORTGAGE AND HOME IMPROVEMENT LOANS.

Section 107(5)(A)(ii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(ii)) is amended by striking out "fifteen years" and all that follows and inserting in lieu thereof "15 years or any longer term which the Board may allow;".

SEC. 703. OWNERSHIP INTEREST.

Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) is amended by inserting ", representing equity," after "payments".

SEC. 704. FAITHFUL PERFORMANCE.

(a) FINANCIAL OFFICER.—Section 112 of the Federal Credit Union Act (12 U.S.C. 1761a) is amended by striking out the third sentence and inserting in lieu thereof the following: "The board shall elect from their number a financial officer who shall give adequate fidelity coverage in accordance with section 113(2) of this Act.".

(b) ADEQUATE FIDELITY COVERAGE.—Section 113 of the Federal Credit Union Act (12 U.S.C. 1761b) is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) provide adequate fidelity coverage for officers and employees having custody of or handling funds according to regulations issued by the Board;".

SEC. 705. MEMBERSHIP OFFICERS.

Section 113(1) of the Federal Credit Union Act (12 U.S.C. 1761b(1)) is amended by striking out "of the board of directors" and inserting in lieu thereof "of the credit union".

101 STAT. 653

SEC. 706. NONPARTICIPATION.

Section 118 of the Federal Credit Union Act (12 U.S.C. 1764) is amended—

(1) by striking out "Subject to" in subsection (a) and inserting in lieu thereof "Except as provided in"; and

(2) by inserting "and enforce" after "adopt" in subsection (b).

SEC. 707. PROPERTY ACQUISITION FLEXIBILITY.

Section 120(i)(2) of the Federal Credit Union Act (12 U.S.C. 1766(i)(2)) is amended—

(1) by inserting after "reimbursement," the following: "acquire and dispose of, by lease or purchase, real or personal property, without regard to the provisions of any other law applicable to executive or independent agencies of the United States,"; and

(2) by inserting after "this Act" the following: ", in accordance with the rules and regulations or policies established by the Board not inconsistent with this Act".

SEC. 708. TREATMENT OF NCUAB FUNDS.

Title I of the Federal Credit Union Act is amended by adding at the end thereof the following:

"SEC. 129. TRUST FUND.

12 USC 1772c.

"Notwithstanding any other provision of law, all moneys of the Board shall be treated as trust funds for the purpose of section

Ante, p. 634.

256(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985. This section is effective for fiscal year 1986 and every fiscal year thereafter.".

SEC. 709. TECHNICAL AND CLARIFYING AMENDMENTS; REMOVAL AND PROHIBITION AUTHORITY.

Section 206(g) of the Federal Credit Union Act (12 U.S.C. 1786(g)) is amended—

(1) in paragraph (1), by striking out "director, officer, or committee member" each time it appears and inserting in lieu thereof "director, officer, committee member, or employee";

(2) in paragraph (2), by striking out "director, officer, or committee member" each place it appears and inserting in lieu thereof "director, officer, committee member, or employee";

(3) in paragraph (2), by striking out "any other person" and inserting in lieu thereof "any agent or other person"; and

(4) in paragraph (2), by inserting "employee, agent," before "or other person".

SEC. 710. EFFECT OF REMOVAL OR SUSPENSION.

Section 206(g) of the Federal Credit Union Act (12 U.S.C. 1786(g)) is amended by adding at the end thereof the following:

"(7)(A) Any person who, pursuant to this subsection, is removed, suspended, or prohibited from participation in the conduct of the affairs of an insured credit union shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of any insured institution, any bank holding company or subsidiary of a bank holding company, any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, and any savings and loan holding company or subsidiary of a savings and loan holding company (as those terms are defined in the National Housing Act), and any institution chartered by and subject to regulation by the Farm Credit Administration without the prior written approval of the appropriate Federal regulatory agency.

101 STAT. 654

12 USC 1701.

"(B) As used in subsection (g), the term 'insured institution' means an insured credit union or a depository institution whose accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.".

SEC. 711. IMPOSITION OF CONSERVATORSHIP.

Section 206(h)(1) of the Federal Credit Union Act (12 U.S.C. 1786(h)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(C) there is a willful violation of a cease-and-desist order which has become final; or

"(D) there is concealment of books, papers, records, or assets of the credit union or refusal to submit books, papers, records, or affairs of the credit union for inspection to any examiner or to any lawful agent of the Board.".

SEC. 712. REDUCTION IN STATE COMMENT WAITING PERIOD.

Section 206(h)(2)(B) of the Federal Credit Union Act (12 U.S.C. 1786(h)(2)(B)) is amended by striking out "ninety" and inserting in lieu thereof "30".

SEC. 713. AUTHORITY AS CONSERVATOR.

Section 206(h) of the Federal Credit Union Act (12 U.S.C. 1786(h)) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

"(8) The conservator shall have all the powers of the members, the directors, the officers, and the committees of the credit union and

shall be authorized to operate the credit union in its own name or to conserve its assets in the manner and to the extent authorized by the Board.".

SEC. 714. LIQUIDATION PROCEEDINGS.

(a) APPLICATION FOR SHOW CAUSE ORDER.—Section 207(a)(1) of the Federal Credit Union Act (12 U.S.C. 1787(a)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end thereof the following:

"(B) Not later than 10 days after the date on which the Board closes a credit union for liquidation pursuant to paragraph (1), or accepts appointment as liquidating agent pursuant to subsection (b), such insured credit union may apply to the United States district court for the judicial district in which the principal office of such insured credit union is located or the United States District Court for the District of Columbia, for an order requiring the Board to show cause why it should not be prohibited from continuing such liquidation. Except as otherwise provided in this subparagraph, no court may take any action for or toward the removal of any liquidating agent or, except at the instance of the Board, restrain or affect the exercise of powers or functions of a liquidating agent.". 101 STAT. 655

(b) LIQUIDATIONS SUBJECT TO REGULATION OF THE BOARD.—Section 208(c) of the Federal Credit Union Act (12 U.S.C. 1788(c)) is redesignated as subsection (j) of section 207 (12 U.S.C. 1787) and is amended by striking out "subject to the regulation of the court or other public body having jurisdiction over the matter" and inserting in lieu thereof "subject only to the regulation of the Board, or, in cases where the Board has been appointed liquidating agent solely by a public authority having jurisdiction over the matter other than said Board, subject only to the regulation of such public authority".

(c) CONFORMING AMENDMENT.—Section 208(d) of the Federal Credit Union Act (12 U.S.C. 1788(d)) is redesignated as section 208(c).

SEC. 715. TRANSFER OF FTC JURISDICTION TO NCUAB.

(a) IN GENERAL.—

(1) Sections 5(a)(2) and 6(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2) and 46(a)) are amended by inserting immediately after "section 18(f)(3)," the following: "Federal credit unions described in section 18(f)(4),". 15 USC 57a.

(2) Section 6(b) of the Federal Trade Commission Act (15 U.S.C. 46(b)) is amended by inserting immediately after "section 18(f)(3)," the following "Federal credit unions described in section 18(f)(4),".

(b) INVESTIGATIONS OF FOREIGN TRADE CONDITIONS; REPORTS.—The second proviso in section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended—

(1) by inserting immediately after "section 18(f)(3)," the following: "Federal credit unions described in section 18(f)(4),"; and

(2) by inserting immediately after "in business as a savings and loan institution," the following: "in business as a Federal credit union,".

(c) REGULATIONS TO BE PRESCRIBED BY NCUAB.—

(1) The second sentence of section 18(f)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(1)) is amended by inserting immediately after "paragraph (3))" the following: "and the National Credit Union Administration Board (with respect to Federal credit unions described in paragraph (4))".

(2) The last sentence of section 18(f)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(1)) is amended—

(A) by striking "either such" and inserting in lieu thereof "any such";

(B) by inserting "or Federal credit unions described in paragraph (4)," immediately after "paragraph (3)," each place it appears therein; and

(C) by inserting immediately after "with respect to banks" the following: ", savings and loan institutions or Federal credit unions".

(3) Section 18(f) of the Federal Trade Commission Act (15 U.S.C. 57a(f)) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting immediately after paragraph (3) the following:

"(4) Compliance with regulations prescribed under this subsection shall be enforced with respect to Federal credit unions under sections 120 and 206 of the Federal Credit Union Act (12 U.S.C. 1766 and 1786).".

101 STAT. 656

SEC. 716. ASSETS WHICH MAY BE PLEDGED.

(a) IN GENERAL.—Section 121 of the Federal Credit Union Act (12 U.S.C. 1767) is amended by adding at the end thereof the following new subsection:

State and local governments. Indians.

"(b) Any Federal credit union, upon the deposit with it of any funds by the Federal Government, an Indian tribe, or any State or local government or political subdivision thereof as otherwise authorized by this Act, is authorized to pledge any of its assets securing the payment of the funds so deposited.".

(b) CONFORMING AMENDMENT.—Section 121 of the Federal Credit Union Act (12 U.S.C. 1767) is amended by striking out "Each" in the first sentence and inserting in lieu thereof "(a) Each".

TITLE VIII—LOAN LOSS AMORTIZATION

SEC. 801. LOAN LOSS AMORTIZATION FOR AGRICULTURAL BANKS.

Ante, p. 623.

Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended by adding at the end thereof the following:

"(j) LOAN LOSS AMORTIZATION FOR CERTAIN BANKS.—

"(1) ELIGIBILITY.—The appropriate Federal banking agency shall permit an agricultural bank to take the actions referred to in paragraph (2) if it finds that—

Fraud.

"(A) there is no evidence that fraud or criminal abuse on the part of the bank led to the losses referred to in paragraph (2); and

"(B) the agricultural bank has a plan to restore its capital, not later than the close of the amortization period established under paragraph (2), to a level prescribed by the appropriate Federal banking agency.

"(2) SEVEN-YEAR LOSS AMORTIZATION.—(A) Any loss on any qualified agricultural loan that an agricultural bank would otherwise be required to show on its annual financial statement for any year between December 31, 1983, and January 1, 1992, may be amortized on its financial statements over a period of not to exceed 7 years, as provided in regulations issued by the appropriate Federal banking agency.

Real property.

"(B) An agricultural bank may reappraise any real estate or other property, real or personal, that it acquired coincident to the making of a qualified agricultural loan and that it owned on January 1, 1983, and any such additional property that it acquires prior to January 1, 1992. Any loss that such bank would otherwise be required to show on its annual financial statements as the result of any such reappraisal may be amortized on its financial statements over a period of not to exceed 7 years, as provided in regulations issued by the appropriate Federal banking agency.

"(3) REGULATIONS.—Not later than 90 days after the date of enactment of this subsection, the appropriate Federal banking agency shall issue regulations implementing this subsection with respect to banks that it supervises, including regulations implementing the capital restoration requirement of paragraph (1)(B).

"(4) DEFINITIONS.—As used in this subsection—

"(A) the term 'agricultural bank' means a bank— 101 STAT. 657

"(i) the deposits of which are insured by the Federal Deposit Insurance Corporation;

"(ii) which is located in an area the economy of which is dependent on agriculture;

"(iii) which has assets of $100,000,000 or less; and

"(iv) which has—

"(I) at least 25 percent of its total loans in qualified agricultural loans; or

"(II) fewer than 25 percent of its total loans in qualified agricultural loans but which the appropriate Federal banking agency or State bank commissioner recommends to the Corporation for eligibility under this section, or which the Corporation, on its motion, deems eligible; and

"(B) the term 'qualified agricultural loan' means a loan made to finance the production of agricultural products or livestock in the United States, a loan secured by farmland or farm machinery, or such other category of loans as the appropriate Federal banking agency may deem eligible.

"(5) MAINTENANCE OF PORTFOLIO.—As a condition of eligibility under this subsection, the agricultural bank must agree to maintain in its loan portfolio a percentage of agricultural loans which is not lower than the percentage of such loans in its loan portfolio on January 1, 1986.".

TITLE IX—FULL FAITH AND CREDIT OF FEDERALLY INSURED DEPOSITORY INSTITUTIONS

SEC. 901. REAFFIRMATION OF SECURITY OF FUNDS DEPOSITED IN FEDERALLY INSURED DEPOSITORY INSTITUTIONS.

(a) FINDINGS.—The Congress finds and declares that—

(1) since the 1930's, the American people have relied upon Federal deposit insurance to ensure the safety and security of their funds in federally insured depository institutions; and

(2) the safety and security of such funds is an essential element of the American financial system.

(b) SENSE OF CONGRESS.—In view of the findings and declarations contained in subsection (a), it is the sense of the Congress that it should reaffirm that deposits up to the statutorily prescribed amount in federally insured depository institutions are backed by the full faith and credit of the United States.

TITLE X—GOVERNMENT CHECKS

SEC. 1001. REPORT ON DIFFICULTY IN CASHING TREASURY CHECKS.

Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and transmit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the extent to which individuals who receive Treasury checks have difficulty cashing such checks.

101 STAT. 658

SEC. 1002. TIME LIMIT ON PAYMENT OF TREASURY CHECKS.

Section 3328 of title 31, United States Code, is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) TIME LIMIT ON TREASURY CHECKS.—

"(1) IN GENERAL.—Except as provided in sections 3329 and 3330 of this title—

31 USC 3329, 3330.

"(A) the Secretary shall not be required to pay a Treasury check issued on or after the effective date of this section unless it is negotiated to a financial institution within 12 months after the date on which the check was issued; and

"(B) the Secretary shall not be required to pay a Treasury check issued before the effective date of this section unless it is negotiated to a financial institution within 12 months after such effective date.

"(2) DEFERRAL PENDING SETTLEMENT.—Notwithstanding the time limitations imposed by paragraph (1), if the Secretary is on notice of a question of law or fact about whether a Treasury check is properly payable when the check is presented for payment, the Secretary may defer payment on such check until the Comptroller General settles the question.

"(3) Nothing in this subsection shall be construed to affect the underlying obligation of the United States, or any agency thereof, for which a Treasury check was issued."; and

(2) by adding at the end thereof the following:

"(f) AUTHORITY TO DECLINE PAYMENT.—Nothing in this section limits the authority of the Secretary to decline payment of a Treasury check after first examination thereof at the Treasury.".

SEC. 1003. CANCELLATION OF TREASURY CHECKS.

Chapter 33 of title 31, United States Code, is amended by adding at the end of subchapter II the following new section:

"§ 3334. Cancellation and proceeds distribution of Treasury checks

"(a) IN GENERAL.—(1) The Secretary shall provide monthly to each agency that authorizes the issuance of Treasury checks a list of those checks issued for such agency on or after such effective date that have not been paid and have become more than 12 months old during the preceding month, beginning with the fourteenth month following the effective date of this section.

"(2) Such checks shall be canceled by the Secretary and the proceeds thereof shall be returned to the agency concerned and credited to the appropriation or fund account initially charged for the payment.

"(b) CHECKS ISSUED BEFORE EFFECTIVE DATE.—(1) Not later than 18 months after the effective date of this section, the Secretary shall identify and cancel all Treasury checks issued before such effective date that have not been paid in accordance with section 3328 of this title.

"(2) The proceeds from checks canceled pursuant to paragraph (1) shall be applied to eliminate the balances in accounts that represent uncollectible accounts receivable and other costs associated with the payment of checks and check claims by the Department of the Treasury on behalf of all payment certifying agencies. Any remaining proceeds shall be deposited to the miscellaneous receipts of the Treasury.

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"(c) NO EFFECT ON UNDERLYING OBLIGATION.—Nothing in this section shall be construed to affect the underlying obligation of the United States, or any agency thereof, for which a Treasury check was issued.".

SEC. 1004. LIMITATION ON RECLAMATION ACTIONS AND CLAIMS.

(a) IN GENERAL.—Section 3712(a) of title 31, United States Code, is amended to read as follows:

Fraud.

"(a) CLAIMS OVER FORGED OR UNAUTHORIZED ENDORSEMENTS.—

"(1) PERIOD FOR CLAIMS.—If the Secretary of the Treasury

determines that a Treasury check has been paid over a forged or unauthorized endorsement, the Secretary may reclaim the amount of such check from the presenting bank or any other endorser that has breached its guarantee of endorsements prior to—

"(A) the end of the 1-year period beginning on the date of payment; or

"(B) the expiration of the 180-day period beginning on the close of the period described in subparagraph (A) if a timely claim is received under section 3702. *Infra.*

"(2) CIVIL ACTIONS.—(A) Except as provided in subparagraph (B), the United States may bring a civil action to enforce the liability of an endorser, transferor, depository, or fiscal agent on a forged or unauthorized signature or endorsement on, or a change in, a check or warrant issued by the Secretary of the Treasury, the United States Postal Service, or any disbursing official or agent not later than 1 year after a check or warrant is presented to the drawee for payment.

"(B) If the United States has given an endorser written notice of a claim against the endorser within the time allowed by subparagraph (A), the 1-year period for bringing a civil action on that claim under subparagraph (A) shall be extended by 3 years.

"(3) EFFECT ON AGENCY AUTHORITY.—Nothing in this subsection shall be construed to limit the authority of any agency under subchapter II of chapter 37 of this title.". 31 USC 3711.

(b) CLAIMS PRESENTED TO AGENCIES.—Section 3702(c) of title 31, United States Code, is amended to read as follows:

"(c) ONE-YEAR LIMIT FOR CHECK CLAIMS.—(1) Any claim on account of a Treasury check shall be barred unless it is presented to the agency that authorized the issuance of such check within 1 year after the date of issuance of the check or the effective date of this subsection, whichever is later.

"(2) Nothing in this subsection affects the underlying obligation of the United States, or any agency thereof, for which a Treasury check was issued.".

SEC. 1005. REGULATIONS. 31 USC 3328 note.

The Secretary of the Treasury may prescribe such rules, regulations, and procedures as the Secretary deems necessary to implement the amendments made by sections 1002, 1003, and 1004, including the recertification of Treasury checks which have been canceled or for which a claim has been asserted or barred.

SEC. 1006. EFFECTIVE DATE. 31 USC 3328 note.

The amendments made by sections 1002, 1003, and 1004 shall become effective 6 months after the date of enactment of this Act or on such later date as the Secretary of the Treasury may prescribe in regulations. 101 STAT. 660

TITLE XI—INTEREST TO CERTAIN DEPOSITORS

SEC. 1101. INTEREST TO CERTAIN DEPOSITORS.

(a) PAYMENT OF INTEREST REQUIRED.—Notwithstanding any other provision of law, the Federal Deposit Insurance Corporation shall pay interest in accordance with the requirements of subsection (b) on nonnegotiable certificates (commonly referred to as "yellow certificates") which—

(1) were issued by the Golden Pacific National Bank of New York, New York, before such bank was declared to be insolvent by the Comptroller of the Currency on June 21, 1985; and New York.

(2) have been determined to be insured deposits (as such term is defined in section 3(m)(1) of the Federal Deposit Insurance Act) in any judicial action or agency proceeding. 12 USC 1813.

(b) COMPUTATION OF INTEREST.—Interest required to be paid under subsection (a) with respect to any certificate described in such subsection shall be computed—

(1) on the principal amount of that portion of such certificate which was determined to be an insured deposit;

New York.

(2) at the statutory rate of interest in effect under the law of the State of New York; and

(3) for the period beginning on June 21, 1985, and ending on the date on which the holder of such certificate, or the holder's representative, receives the payment of deposit insurance on account of such certificate from the Federal Deposit Insurance Corporation.

TITLE XII—MISCELLANEOUS PROVISIONS

SEC. 1201. HIGH YIELD BOND STUDY.

(a) IN GENERAL.—The Comptroller General, in consultation with the Securities and Exchange Commission, the Federal Home Loan Bank Board, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Savings and Loan Insurance Corporation, the Federal Deposit Insurance Corporation, the Secretary of the Treasury, and the Secretary of Labor shall study on a comparative basis to other types of investments made by federally insured institutions the issuance of and investment in high yield, noninvestment grade bonds during the 5 years prior to the date of enactment of this Act, including—

(1) the identity and rating (as determined by Moody's, Standard and Poor's, or other nationally recognized bond rating house) of the issuers of these bonds;

(2) the identity of the major purchasers of these bonds, including but not limited to federally insured depository institutions;

(3) the percentage of the total amount of high yield, noninvestment grade bonds that are issued as a method of financing corporate takeovers;

(4) the identity of the purchasers including, but not limited to, federally insured depository institutions that invest in high yield, noninvestment grade bonds that are issued as a method of financing corporate takeovers;

101 STAT. 661

(5) the purposes for which high yield, noninvestment grade bonds are issued other than for financing corporate takeovers;

(6) a summary and analysis of the adequacy of current State and Federal laws that regulate investment in high yield, noninvestment grade bonds, by investors including, but not limited to, federally insured depository institutions and pension funds; and

(7) a review of the impact of the issuance of and investment in high yield, noninvestment grade bonds upon corporate debt as it relates to Federal monetary policy.

(b) OTHER TYPES OF DIRECT INVESTMENT.—In preparing this study, the Comptroller General, in consultation with the aforementioned Federal agencies, shall also examine all other types of direct investments made by Federally insured institutions and the effect these investments have had on Federal insurance funds.

(c) PUBLIC HEARING.—In addition to the collection of information through surveys, public document review, interviews, and other information-gathering methods, at least one joint public hearing shall be held during the course of conducting the study.

(d) REPORTING DATE.—The Comptroller General shall transmit a report containing the results of the study under this section to the Congress not later than 6 months after the date of enactment of this Act.

SEC. 1202. STUDY OF COMPETITIVE ISSUES IN THE PAYMENTS MECHANISM.

(a) IN GENERAL.—The Comptroller General, in coordination and consultation with the Board of Governors of the Federal Reserve System, shall conduct a study of—

(1) the Federal Reserve System's exemption from the imposition of presentment fees;

(2) the impact of the imposition of presentment fees on the efficiency of the check collection system; and

(3) whether the Federal Reserve System requires check clearinghouses to provide services to Federal Reserve banks and whether Federal Reserve banks should pay check clearinghouses for any such services.

(b) REPORTING DATE.—The Comptroller General shall submit its report to Congress not later than 6 months after the date of enactment of this Act.

SEC. 1203. STUDY AND REPORTS CONCERNING DIRECT INVESTMENTS.

12 USC 1437 note.

(a) STUDY REQUIRED.—The Federal Home Loan Bank Board shall conduct a study of the effect of direct investment activities on insured institutions, including comparative analyses of the effect of direct investment activities on—

(1) different sized insured institutions;

(2) State chartered insured institutions;

(3) federally chartered insured institutions; and

(4) insured institutions in each of the Supervisory Examinations Rating Classifications.

(b) REPORT REQUIRED.—Not later than 18 months after the date of enactment of this Act, the Federal Home Loan Bank Board shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report containing the findings and conclusions of the Board with respect to the study required under subsection (a), including—

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(1) the findings and conclusions of the Board concerning the losses to the insurance fund and the degree to which such losses were the result of direct investment activities with respect to each of the classes of institutions described in subsection (a); and

(2) a comparison of the effects of direct investment activities prior to April 16, 1987, and the effect of such activities on or after April 16, 1987, for each of the classes of institutions described in subsection (a) and the losses to the insurance fund as a result of such activities.

(c) PRIOR REPORTS TO CONGRESS ON CHANGES TO DIRECT INVESTMENT REGULATIONS.—

(1) IN GENERAL.—Not less than 90 days before final approval is given by the Federal Home Loan Bank Board to any regulation which repeals or modifies (or has the effect of repealing or modifying) any regulation limiting direct investment activities, the Board shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the proposed regulation and the reasons for the proposed regulation, including the effect of such regulation on the insurance fund.

(2) PROSPECTIVE APPLICATION OF RULE.—Paragraph (1) shall not apply with respect to Board Resolution Numbered 87-215 and Board Resolution Numbered 87-215A.

(d) DIRECT INVESTMENT ACTIVITY DEFINED.—For purposes of this section, the term "direct investment activities" means activities which are limited under Board Resolution Numbered 87-215 and Board Resolution Numbered 87-215A.

12 USC 3806.

SEC. 1204. ADJUSTABLE RATE MORTGAGE CAPS.

(a) IN GENERAL.—Any adjustable rate mortgage loan originated by a creditor shall include a limitation on the maximum interest rate that may apply during the term of the mortgage loan.

(b) REGULATIONS.—The Board of Governors of the Federal Reserve System shall prescribe regulations to carry out the purposes of this section.

(c) ENFORCEMENT.—Any violation of this section shall be treated as a violation of the Truth in Lending Act and shall be subject to administrative enforcement under section 108 or civil damages under section 130 of such Act, or both.

15 USC 1601 note.
15 USC 1607.
15 USC 1640.

(d) DEFINITIONS.—For the purpose of this section—

(1) the term "creditor" means a person who regularly extends credit for personal, family, or household purposes; and

(2) the term "adjustable rate mortgage loan" means any loan secured by a lien on a one- to four-family dwelling unit, including a condominium unit, cooperative housing unit, or mobile home, where the loan is made pursuant to an agreement under which the creditor may, from time to time, adjust the rate of interest.

(e) EFFECTIVE DATE.—This section shall take effect upon the expiration of 120 days after the date of enactment of this Act.

101 STAT. 663

12 USC 226 note.

SEC. 1205. SEPARABILITY OF PROVISIONS.

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Approved August 10, 1987.

LEGISLATIVE HISTORY—H.R. 27:

HOUSE REPORTS: No. 100-62 (Comm. on Banking, Finance and Urban Affairs) and No. 100-261 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 133 (1987):
May 5, considered and passed House.
May 14, considered and passed Senate, amended.
June 11, House disagreed to Senate amendments.
Aug. 3, House agreed to conference report.
Aug. 4, Senate agreed to conference report.

101 STAT. 884

Public Law 100-151
100th Congress

An Act

Nov. 3, 1987
[H.R. 2893]

To reauthorize the Fishermen's Protective Act.

Fish and fishing.
Maritime affairs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7(e) of the Fishermen's Protective Act (22 U.S.C. 1977(e)) is amended by striking "October 1, 1987" and substituting "October 1, 1988".

46 USC 12102 note.

SEC. 2. The Act entitled "An Act to temporarily restrict the ability to document foreign-built fish processing vessels under the laws of the United States", approved August 20, 1987 (Public Law 100-111; 101 Stat. 733), is amended by striking "October" and inserting in lieu thereof "November".

SEC. 3. The Act entitled "An Act to set aside certain surplus vessels for use in the provision of health and other humanitarian

services to developing countries", approved October 22, 1982 (Public Law 97-360; 96 Stat. 1718), is amended—

(1) by striking "to the peoples of developing countries" wherever it is found; and

(2) in section 7, by striking "five calendar years after the date of enactment." and inserting in lieu thereof the following: "on October 22, 1989.".

Approved November 3, 1987.

LEGISLATIVE HISTORY—H.R. 2893:

HOUSE REPORTS: No. 100-299 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 29, considered and passed House.
Oct. 14, considered and passed Senate, amended.
Oct. 20, House concurred in Senate amendments.

Public Law 100-181
100th Congress

101 STAT. 1249

An Act

To extend and amend the authorization of appropriations for the Securities and Exchange Commission, and for other purposes.

Dec. 4, 1987
[S. 1452]

Be it enacted by the Senate and House of Respresentatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Securities and Exchange Commission Authorization Act of 1987".

Securities and Exchange Commission Authorization Act of 1987.
15 USC 78a note.

TITLE I—AUTHORIZATION

SEC. 101. Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 35. (a) There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission—

"(1) $158,600,000 for fiscal year 1988; and

"(2) $172,200,000 for fiscal year 1989.

"(b) Of the amounts authorized by subsection (a), the amount which may, subject to section 35A, be obligated or expended by the Commission for the purpose of funding a contract for the establishment and operation of the electronic data gathering, analysis, and retrieval ('EDGAR') system shall not exceed—

"(1) $15,000,000 for fiscal year 1988; and

"(2) $20,000,000 for fiscal year 1989.".

SEC. 102. The Securities Exchange Act of 1934 is amended by inserting after section 35 the following new section:

"REQUIREMENTS FOR THE EDGAR SYSTEM

Contracts.

"SEC. 35A. (a)(1) Of the funds appropriated to the Commission pursuant to section 35 of this title for fiscal year 1988 which are available pursuant to section 35(b) for establishment or operation of the electronic data gathering, analysis, and retrieval ('EDGAR') system, the Commission may not obligate or expend more than $5,000,000 for the establishment or operation of the EDGAR system unless the Commission has made the certification required by subsection (c) of this section.

15 USC 78ll.

"(2) Notwithstanding section 35(b), no funds appropriated for fiscal year 1989 may be obligated or expended for the establishment

or operation of the EDGAR system, unless the Commission has—

Reports.

"(A) filed each report required during fiscal year 1988 by subsection (b) of this section; and

"(B) made the certification required by subsection (c) of this section.

"(3) Amounts which are available to the Commission under section 35(b) for the EDGAR contract shall be the exclusive source of funds for the procurement and operation of the systems created under that contract by or on behalf of the Securities and Exchange Commission—

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"(A) for the receipt of filings under Federal securities laws, and

"(B) for the automated acceptance and review of the filings and information derived from such filings.

Reports.

"(b) The Commission shall submit a report to the Committees on Banking, Housing, and Urban Affairs and Governmental Affairs of the Senate and the Committees on Energy and Commerce and Government Operations of the House of Representatives on the status of EDGAR development, implementation, and progress at six-month intervals beginning December 31, 1987, and ending at the close of 1990 (unless otherwise extended by the Congress). Such report shall include the following:

"(1) The overall progress and status of the project, including achievement of significant milestones and current project schedule.

"(2) The results of Commission efforts to test new or revised technical solutions for key EDGAR functions. In particular, the following functions shall be addressed and the indicated information provided:

"(A) Automating receipt and acceptance processing, including—

"(i) development and testing progress and results;

"(ii) actual versus estimated development cost; and

"(iii) actual effect of this function on Commission staff needs to assist filers.

"(B) Data tagging (identifying financial data for analysis by EDGAR), including—

"(i) description of the approach selected, identifying the types of financial data to be tagged and the calculations to be performed;

"(ii) comments by the filer population on the approach selected;

"(iii) the results of testing this approach, including information on the number of filers taking part in the test and their representativeness of the overall filer population;

"(iv) actual versus estimated development cost; and

"(v) effect of implementing this function on EDGAR benefits.

"(C) Searching text for keywords, including—

"(i) the technical approach adopted for this function;

"(ii) development and testing progress and results;

"(iii) data storage requirements and search response times as compared to EDGAR pilot system experience;

"(iv) actual versus estimated development cost; and

"(v) effect of implementing this function on EDGAR benefits.

"(3) An update of cost information for the receipt, acceptance and review, and dissemination portions of the system including a comparison of actual costs with original estimated costs and revised estimates of total system cost and total funding needs for the contract.

"(4) The status of Commission efforts to obtain and maintain staff with the proper contractual, managerial, and technical expertise to oversee the EDGAR project.

"(5) The fees, revenues, costs, and profits obtained or incurred by the contractor as a result of the required dissemination of information from the system to the public under the EDGAR contract, except that the information required under this paragraph (A) need be obtained from the contractor no more frequently than once each year, and (B) may be submitted to the Congress as a separate confidential document. 101 STAT. 1251

"(6) Such other information or recommendations as the Commission considers appropriate.

"(c) On or before the date the Commission enters into the contract for the EDGAR system, the Commission shall submit to the Committees on Banking, Housing, and Urban Affairs and Governmental Affairs of the Senate and the Committees on Energy and Commerce and Government Operations of the House of Representatives a certification by the Commission—

"(1) of the total contract costs to the Federal Government of the EDGAR system for each of the 3 succeeding fiscal years;

"(2) that the Commission has analyzed the quantitative and qualitative benefits to be obtained by the establishment and operation of the system and has determined that such benefits justify the costs certified pursuant to paragraph (1);

"(3) that (A) the contract requires the contractor to establish a schedule for the implementation of the system; (B) the Commission has reviewed and approved that schedule; and (C) the contract contains adequate assurances of contractor compliance with that schedule;

"(4) of the capabilities which the system is intended to provide and of the competence of the contractor and of Commission personnel to implement those capabilities; and

"(5) that mandatory filings from a significant test group of registrants will be received and reviewed by the Commission for a period of at least six months before the adoption of any rule requiring mandatory filing by all registrants.

"(d) The Commission, by rule or regulation—

"(1) shall provide that any information in the EDGAR system that is required to be disseminated by the contractor—

"(A) may be sold or disseminated by the contractor only pursuant to a uniform schedule of fees prescribed by the Commission;

"(B) may be obtained by a purchaser by direct interconnection with the EDGAR system;

"(C) shall be equally available on equal terms to all persons; and

"(D) may be used, resold, or redisseminated by any person who has lawfully obtained such information without restriction and without payment of additional fees or royalties; and

"(2) shall require that persons, or classes of persons, required to make filings with the Commission submit such filings in a form and manner suitable for entry into the EDGAR system and shall specify the date that such requirement is effective with respect to that person or class; except that the Commission may exempt persons or classes of persons, or filings or classes of filings, from such rules or regulations in order to prevent hardships or to avoid imposing unreasonable burdens or as otherwise may be necessary or appropriate; and 101 STAT. 1252

"(3) shall require all persons who make any filing with the Commission, in addition to complying with such other rules concerning the form and manner of filing as the Commission may prescribe, to submit such filings in written or printed form—

"(A) for a period of at least one year after the effective date specified for such person or class under paragraph (2); or

"(B) for a shorter period if the Commission determines that the EDGAR system (i) is reliable, (ii) provides a suitable alternative to such written and printed filings, and (iii) assures that the provision of information through the EDGAR system is as effective and efficient for filers, users, and disseminators as provision of such information in written or printed form.

"(e) For the purposes of carrying out its responsibilities under subsection (d)(3) of this section, the Commission shall consult with representatives of persons filing, disseminating, and using information contained in filings with the Commission.".

TITLE II—AMENDMENTS TO THE SECURITIES ACT OF 1933

SEC. 201. Section 2(5) of the Securities Act of 1933 (15 U.S.C. 77b(5)) is amended by striking out "Federal Trade Commission" and inserting in lieu thereof "Securities and Exchange Commission".

SEC. 202. Section 2(6) of the Securities Act of 1933 (15 U.S.C. 77b(6)) is amended by striking out "Canal Zone,".

SEC. 203. Section 3(a)(1) of the Securities Act of 1933 (15 U.S.C. 77c(a)(1)) is amended by striking all that appears therein and inserting in lieu thereof "(1) Reserved.".

SEC. 204. Section 3(a)(5)(A) of the Securities Act of 1933 (15 U.S.C. 77c(a)(5)(A)) is amended by striking out ", except that the foregoing exemption shall not apply with respect to any such security where the issuer takes from the total amount paid or deposited by the purchaser, by way of any fee, cash value or other device whatsoever, either upon termination of the investment at maturity or before maturity, an aggregate amount in excess of 3 per centum of the face value of such security".

SEC. 205. Section 6(e) of the Securities Act of 1933 (15 U.S.C. 77f(e)) is repealed.

Courts.

SEC. 206. Section 9(a) of the Securities Act of 1933 (15 U.S.C. 77i(a)) is amended—

(1) by striking out "Circuit Court of Appeals" and inserting in lieu thereof "court of appeals";

(2) by striking out "Court of Appeals of the District of Columbia, by filing in such court" and inserting in lieu thereof "United States Court of Appeals for the District of Columbia, by filing in such Court"; and

(3) by striking out "sections 239 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 346 and 347)" and inserting in lieu thereof "section 1254 of title 28, United States Code".

SEC. 207. Section 19(c) of the Securities Act of 1933 (15 U.S.C. 77s(c)) is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any other provision of law, neither the Commission nor any other person shall be required to establish any procedures not specifically required by the securities laws, as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934, or by chapter 5 of title 5, United States Code, in connection with cooperation, coordination, or consultation with—

101 STAT. 1253

"(A) any association referred to in paragraph (1) or (3) or any conference or meeting referred to in paragraph (4), while such association, conference, or meeting is carrying out activities in furtherance of the provisions of this subsection; or

"(B) any forum, agency, or organization, or group referred to in section 503 of the Small Business Investment Incentive Act of 1980, while such forum, agency, organization, or group is carrying out activities in furtherance of the provisions of such section 503.

As used in this paragraph, the terms 'association', 'conference', 'meeting', 'forum', 'agency', 'organization', and 'group' include any committee, subgroup, or representative of such entities.".

SEC. 208. (a) Section 20(b) of the Securities Act of 1933 (15 U.S.C. 77t(b)) is amended by striking out the first sentence and inserting in

lieu thereof the following: "Whenever it shall appear to the Commission that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this title, or of any rule or regulation prescribed under authority thereof, the Commission may, in its discretion, bring an action in any district court of the United States, or United States court of any Territory, to enjoin such acts or practices, and upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.".

(b) Section 20(c) of such Act (15 U.S.C. 77t(c)) is amended to read as follows:

"(c) Upon application of the Commission, the district courts of the United States and the United States courts of any Territory shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this title or any order of the Commission made in pursuance thereof.". Courts.

SEC. 209. Section 22(a) of the Securities Act of 1933 (15 U.S.C. 77v(a)) is amended—

(1) by striking out "United States, the" in the first sentence and inserting in lieu thereof "United States and";

(2) by striking out ", and the United States District Court for the District of Columbia"; and

(3) by striking out "sections 128 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 225 and 347)" and inserting in lieu thereof "sections 1254, 1291, 1292, and 1294 of title 28, United States Code".

TITLE III—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 301. Section 3(a)(6)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(6)(C)) is amended by striking out "under section 11(k) of the Federal Reserve Act, as amended" and inserting in lieu thereof "under the authority of the Comptroller of the Currency pursuant to the first section of Public Law 87-722 (12 U.S.C. 92a)".

SEC. 302. Section 3(a)(16) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(16)) is amended by striking out "the Canal Zone,".

SEC. 303. Section 3(a)(22)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(22)(B)) is amended— 101 STAT. 1254

(1) by striking out "association or any" and inserting in lieu thereof "association, or any"; and

(2) by striking out "own behalf in" and inserting in lieu thereof "own behalf, in".

SEC. 304. Section 3(a)(34)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)(C)) is amended by striking out "state" each place it appears and inserting in lieu thereof "State".

SEC. 305. Section 3(a)(39)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(39)(B)) is amended—

(1) by striking out "months, revoking" and inserting in lieu thereof "months, or revoking"; and

(2) by striking out "barring his" and inserting in lieu thereof "barring or suspending for a period not exceeding 12 months his".

SEC. 306. Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended—

(1) by inserting after paragraph (46) the following:

"(47) The term 'securities laws' means the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.), and the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.).";

(2) by adding at the end thereof the following:

"(49) The term 'person associated with a transfer agent' and 'associated person of a transfer agent' mean any person (except an employee whose functions are solely clerical or ministerial) directly engaged in the management, direction, supervision, or performance of any of the transfer agent's activities with respect to transfer agent functions, and any person directly or indirectly controlling such activities or controlled by the transfer agent in connection with such activities.".

SEC. 307. Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, whenever any fee is required to be paid to the Commission pursuant to any provision of the securities laws or any other law, the Commission may provide by rule that such fee shall be paid in a manner other than in cash.".

SEC. 308. (a) The Securities Exchange Act of 1934 is amended by inserting after section 4 (15 U.S.C. 78d) the following new sections:

"DELEGATION OF FUNCTIONS BY COMMISSION

15 USC 78d-1.

"SEC. 4A. (a) In addition to its existing authority, the Securities and Exchange Commission shall have the authority to delegate, by published order or rule, any of its functions to a division of the Commission, an individual Commissioner, an administrative law judge, or an employee or employee board, including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter. Nothing in this section shall be deemed to supersede the provisions of section 556(b) of title 5, or to authorize the delegation of the function of rulemaking as defined in subchapter II of chapter 5 of title 5, United States Code, with reference to general rules as distinguished from rules of particular applicability, or of the making of any rule pursuant to section 19(c) of this title.

101 STAT. 1255

"(b) With respect to the delegation of any of its functions, as provided in subsection (a) of this section, the Commission shall retain a discretionary right to review the action of any such division of the Commission, individual Commissioner, administrative law judge, employee, or employee board, upon its own initiative or upon petition of a party to or intervenor in such action, within such time and in such manner as the Commission by rule shall prescribe. The vote of one member of the Commission shall be sufficient to bring any such action before the Commission for review. A person or party shall be entitled to review by the Commission if he or it is adversely affected by action at a delegated level which (1) denies any request for action pursuant to section 8(a) or section 8(c) of the Securities Act of 1933 or the first sentence of section 12(d) of this title; (2) suspends trading in a security pursuant to section 12(k) of this title; or (3) is pursuant to any provision of this title in a case of adjudication, as defined in section 551 of title 5, United States Code, not required by this title to be determined on the record after notice and opportunity for hearing (except to the extent there is involved a matter described in section 554(a) (1) through (6) of such title 5).

"(c) If the right to exercise such review is declined, or if no such review is sought within the time stated in the rules promulgated by the Commission, then the action of any such division of the Commission, individual Commissioner, administrative law judge, employee, or employee board, shall, for all purposes, including appeal or review thereof, be deemed the action of the Commission.

"TRANSFER OF FUNCTIONS WITH RESPECT TO ASSIGNMENT OF PERSONNEL TO CHAIRMAN

15 USC 78d-2.

"SEC. 4B. In addition to the functions transferred by the provisions of Reorganization Plan Numbered 10 of 1950 (64 Stat. 1265), there are hereby transferred from the Commission to the Chairman of the Commission the functions of the Commission with respect to

the assignment of Commission personnel, including Commissioners, to perform such functions as may have been delegated by the Commission to the Commission personnel, including Commissioners, pursuant to section 4A of this title.".

(b) The Act of August 20, 1962 (Public Law 87-592; 76 Stat. 394) is hereby repealed. 15 USC 78d-1, 78d-2.

SEC. 309. The first sentence of section 6(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(c)(2)) is amended by striking out "protection shall" and inserting in lieu thereof "protection of investors shall".

SEC. 310. Section 6(c)(3)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(c)(3)(A)) is amended by striking out "association" and inserting in lieu thereof "associated".

SEC. 311. Section 6(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(c)(4)) is amended by striking out "may (A) limit" and inserting in lieu thereof "may limit (A)".

SEC. 312. Section 6(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(e)) is amended—

(1) by striking out "paragraph (4) of this section" in paragraph (1) and inserting in lieu thereof "paragraph (3) of this subsection";

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(2) by striking out paragraph (3) thereof and by redesignating paragraph (4) as paragraph (3); and

(3) in paragraph (3)(E) (as so redesignated)—

(A) by striking out "fixes" and inserting in lieu thereof "fixing";

(B) by striking out "paragraph (4)(A)" and inserting in lieu thereof "subparagraph (A) of this paragraph"; and

(C) by striking out "paragraph (4)(B)" and inserting in lieu thereof "subparagraph (B) of this paragraph".

SEC. 313. Section 11A of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1) is amended—

(1) by striking out "transaction" in paragraph (2) of subsection (b) and inserting in lieu thereof "transactions"; and

(2) by striking out everything after the first sentence in paragraph (4) of subsection (c).

SEC. 314. Sections 11A(e) and 12(m) of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1(e) and 78l(m)) are repealed.

SEC. 315. Section 13(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(c)) is amended by striking out "thereof of" and inserting in lieu thereof "thereof".

SEC. 316. Section 13(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(h)) is repealed.

SEC. 317. Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended—

(1) by striking out "fiduciary, or any" in clause (ii) of subparagraph (B) of paragraph (4) and inserting in lieu thereof "fiduciary, transfer agent, or";

(2) by striking out subparagraph (C) of paragraph (4) and inserting in lieu thereof the following:

"(C) is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.";

(3) by striking out "or seeking to become associated," in the first sentence of paragraph (6) and inserting in lieu thereof

"seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated"; and

(4) by striking out "17A(b)(4)(B)" in paragraph (10) and inserting in lieu thereof "17A(b)(4)(A)".

SEC. 318. Section 15B(b)(2)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(b)(2)(C)) is amended—

(1) by striking out "security" and inserting in lieu thereof "securities";

(2) by striking out "or the securities"; and

(3) by striking out "burden or competition" and inserting in lieu thereof "burden on competition".

SEC. 319. Section 15B(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(c)(4)) is amended by striking out the first sentence
101 STAT. 1257 and inserting in lieu thereof the following: "The Commission, by order, shall censure or place limitations on the activities or functions of any person associated, seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated with a municipal securities dealer, or suspend for a period not exceeding twelve months or bar any such person from being associated with a municipal securities dealer, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person has committed any act or omission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) of this title, has been convicted by any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).".

SEC. 320. Section 15B(c)(6)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(c)(6)(A)) is amended by striking out "board" and inserting in lieu thereof "Board".

SEC. 321. Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended—

(1) by striking out subsection (c)(2) and inserting in lieu thereof the following:

"(2) The appropriate regulatory agency for a clearing agency, transfer agent, or municipal securities dealer for which the Commission is not the appropriate regulatory agency shall file with the Commission notice of the commencement of any proceeding and a copy of any order entered by such appropriate regulatory agency against any clearing agency, transfer agent, municipal securities dealer, or person associated with a transfer agent or municipal securities dealer, and the Commission shall file with such appropriate regulatory agency, if any, notice of the commencement of any proceeding and a copy of any order entered by the Commission against the clearing agency, transfer agent, or municipal securities dealer, or against any person associated with a transfer agent or municipal securities dealer for which the agency is the appropriate regulatory agency.";

(2) by adding at the end of subsection (f)(2) the following: "Notwithstanding any other provision of law, in providing identification and processing functions, the Attorney General shall provide the Commission and self-regulatory organizations designated by the Commission with access to all criminal history record information."; and

(3) by striking out "paragraphs (1) and (2)" in subsection (f)(3)(A) and inserting in lieu thereof "paragraph (1)".

SEC. 322. Section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1) is amended—

(1) by inserting after "concerning such transfer agent" in subsection (c)(2) "and any persons associated with the transfer agent";

(2) by striking out "thirty" in subsection (c)(2) and inserting in lieu thereof "45";

(3) by redesignating subparagraphs (B) and (C) of subsection (c)(3) as subparagraphs (A) and (B), respectively, of new subsection (c)(4);

(4) by striking out subsection (c)(3)(A) and inserting in lieu thereof: 101 STAT. 1258

"(3) The appropriate regulatory agency for a transfer agent, by order, shall deny registration to, censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or revoke the registration of such transfer agent, if such appropriate regulatory agency finds, on the record after notice and opportunity for hearing, that such denial, censure, placing of limitations, suspension, or revocation is in the public interest and that such transfer agent, whether prior or subsequent to becoming such, or any person associated with such transfer agent, whether prior or subsequent to becoming so associated—

"(A) has committed or omitted any act enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within ten years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4); or

"(B) is subject to an order entered pursuant to subparagraph (C) of paragraph (4) of this subsection barring or suspending the right of such person to be associated with a transfer agent.";

(5) by inserting after subsection (c)(4)(B) (as redesignated) the following new subparagraph:

"(C) The appropriate regulatory agency for a transfer agent, by order, shall censure or place limitations on the activities or functions of any person associated, seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated with the transfer agent, or suspend for a period not exceeding twelve months or bar any such person from being associated with the transfer agent, if the appropriate regulatory agency finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person has committed or omitted any act enumerated in subparagraph (A), (D), or (E) or paragraph (4) of section 15(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within ten years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4). It shall be unlawful for any person as to whom such an order suspending or barring him from being associated with a transfer agent is in effect willfully to become, or to be, associated with a transfer agent without the consent of the appropriate regulatory agency that entered the order and the appropriate regulatory agency for that transfer agent. It shall be unlawful for any transfer agent to permit such a person to become, or remain, a person associated with it without the consent of such appropriate regulatory agencies, if the transfer agent knew, or in the exercise of reasonable care should have known, of such order. The Commission may establish, by rule, procedures by which a transfer agent reasonably can determine whether a person associated or seeking to become associated with it is subject to any such order, and may require, by rule, that any transfer agent comply with such procedures.";

(6) by striking out "clearing agency or transfer agent" in subsection (d)(3)(B) and inserting in lieu thereof "clearing agency, transfer agent, or person associated with a transfer agent"; and

101 STAT. 1259

(7) by striking out "or transfer agent" in subsection (d)(4), and inserting in lieu thereof ", transfer agent, or person associated with a transfer agent,".

SEC. 323. Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended—

(1) by striking out "Wherever" in subsection (d) and inserting in lieu thereof "Whenever";

(2) by striking out ", the United States District Court for the District of Columbia," in subsection (e); and

(3) by striking out the second sentence of subsection (g).

SEC. 324. Section 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(a)) is amended—

(1) by inserting "or" before "any self-regulatory organization" in the last sentence of paragraph (1); and

(2) by inserting "shall" after "section 19(b) of this title," in paragraph (3).

SEC. 325. Section 23(b)(4)(F) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(b)(4)(F)) is amended by striking out "The" and inserting in lieu thereof "the".

SEC. 326. Section 27 of the Securities Exchange Act of 1934 (15 U.S.C. 78aa) is amended—

(1) by striking out ", the United States District Court for the District of Columbia,"; and

(2) by striking out "sections 128 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 225 and 347)" and inserting in lieu thereof "sections 1254, 1291, 1292, and 1294 of title 28, United States Code".

SEC. 327. Section 28(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(c)) is amended by striking out "self-regulatory organization or a member thereof" and inserting in lieu thereof "self-regulatory organization on a member thereof".

SEC. 328. Section 28(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(d)) is amended by striking out "change is beneficial" and inserting in lieu thereof "change in beneficial".

SEC. 329. Section 28(e)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(e)(1)) is amended by striking out "Amendments in 1975" and inserting in lieu thereof "Amendments of 1975".

SEC. 330. Section 211 of the Securities Exchange Act of 1934 (15 U.S.C. 78jj) is hereby repealed.

TITLE IV—AMENDMENTS TO THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

SEC. 401. Section 8 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79h) is amended by striking out "otherwise, —" and inserting in lieu thereof "otherwise—".

SEC. 402. Section 18 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79r) is amended—

(1) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively; and

(2) in subsections (e) and (f) (as so redesignated), by striking out ", the district court of the United States for the District of Columbia,".

15 USC 79x.

SEC. 403. Section 24 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 78x) is amended by striking out "sections 239 and 240

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of the Judicial Code, as amended (U.S.C., title 28, secs. 346 and 347)" and inserting in lieu thereof "section 1254 of title 28, United States Code".

SEC. 404. Section 25 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79y) is amended—

(1) by striking out ", the district court of the United States for the District of Columbia,"; and

(2) by striking out "sections 128 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 225 and 347), and section 7, as amended, of the Act entitled 'An Act to establish a court of

appeals for the District of Columbia', approved February 9, 1893 (D.C. Code, title 18, sec. 26)" and inserting in lieu thereof "sections 1254, 1291, 1292, and 1294 of title 28, United States Code".

SEC. 405. Section 30 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-4) is amended by striking out the last sentence thereof.

TITLE V—AMENDMENTS TO THE TRUST INDENTURE ACT OF 1939

SEC. 501. Section 303(4) of the Trust Indenture Act of 1939 (15 U.S.C. 77ccc(4)) is amended by striking out "undertakng" and inserting in lieu thereof "undertaking".

SEC. 502. Section 303(12) of the Trust Indenture Act of 1939 (15 U.S.C. 77ccc(12)) is amended by inserting "(including a guarantor)" after "person" each place it appears.

TITLE VI—AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

SEC. 601. Section 2(a)(19) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(19)) is amended by inserting "completed" before "fiscal years" each place it appears.

SEC. 602. Section 2(a)(39) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(39)) is amended by striking out "the Canal Zone,".

SEC. 603. Section 2(a)(48)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(48)(B)) is amended by striking out "sections 55(a)(1) through (3)" and inserting in lieu thereof "paragraphs (1) through (3) of section 55(a)".

SEC. 604. Section 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(3)) is amended—

(1) by inserting "or" after "therefor;"; and

(2) by inserting a period after "guardian" and striking out all that follows through "principal to another or others.".

SEC. 605. Section 3(c)(7) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(7)) is amended to read as follows:

"(7) Reserved.".

SEC. 606. Section 3(c)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(11)) is amended—

(1) by striking out "Code of 1954" each place it appears and inserting in lieu thereof "Code of 1986";

(2) by striking out "or which holds only assets of governmental plans" and inserting in lieu thereof "; or any governmental plan"; and

(3) by striking out "trusts;" and inserting in lieu thereof "trusts or governmental plans, or both;".

101 STAT. 1261

SEC. 607. Section 5(a)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-5(a)(2)) is amended by striking out "Close-end" and inserting in lieu thereof "Closed-end".

SEC. 608. Section 6(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-6(a)) is amended—

(1) by striking out "the Canal Zone," in paragraph (1); and

(2) by striking out paragraph (2) and redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

SEC. 609. Section 9 of the Investment Company Act of 1940 (15 U.S.C. 80a-9) is amended by striking out paragraphs (1) and (2) in subsection (a) and inserting in lieu thereof the following:

"(1) any person who within 10 years has been convicted of any felony or misdemeanor involving the purchase or sale of any security or arising out of such person's conduct as an underwriter, broker, dealer, investment adviser, municipal securities dealer, government securities broker, government securities dealer, transfer agent, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated

person, salesman, or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act;

"(2) any person who, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an underwriter, broker, dealer, investment adviser, municipal securities dealer, government securities broker, government securities dealer, transfer agent, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman, or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security; or".

SEC. 610. Section 12 of the Investment Company Act of 1940 (15 U.S.C. 80a-12) is amended—

(1) by striking out "Treasury" in subsection (d)(1)(A)(iii) and inserting in lieu thereof "treasury";

(2) by striking out "it reasonably possible" in subsection (d)(1)(G) and inserting in lieu thereof "is reasonably possible"; and

(3) by striking out "only thereof" in subsection (f) and inserting in lieu thereof "thereof only".

SEC. 611. Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a-15) is amended—

(1) by striking out "(40)" in subsection (d) and inserting in lieu thereof "(42)"; and

(2) by striking out the period at the end of subparagraph (B) of paragraph (3) of subsection (:) and inserting in lieu thereof a comma.

SEC. 612. Section 17 of the Investment Company Act of 1940 (15 U.S.C. 80a-17) is amended by striking out the second sentence of each of subsections (h) and (i).

SEC. 613. Section 18(e) of the Investment Company Act of 1940 (15 U.S.C. 80a-18(e)) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

101 STAT. 1262

SEC. 614. Section 20 of the Investment Company Act of 1940 (15 U.S.C. 80a-20) is amended—

(1) by striking out the second sentence of subsection (b);

(2) by striking out the first sentence of subsection (d); and

(3) by striking out "at any time after the effective date of this title" in subsection (d).

SEC. 615. Section 21(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-21(b)) is amended by striking out "to the extension or renewal of any such loan made prior to March 15, 1940, or".

SEC. 616. Section 22 of the Investment Company Act of 1940 (15 U.S.C. 80a-22) is amended—

(1) by striking out "subsection (b)(8)" in paragraph (1) of subsection (b) and inserting in lieu thereof "subsection (b)(6)";

(2) by striking out paragraph (2) of subsection (b) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(3) by striking out "section 15A(k)(2)" in subsection (b)(2) (as so redesignated) and inserting in lieu thereof "section 19(c)";

(4) by inserting in the first sentence of subsection (e) a comma after the word "redemption" where it first appears and where it appears for the third time; and

(5) by striking out the last sentence of subsection (e).

SEC. 617. Section 24(d) of the Investment Company Act of 1940 (15 U.S.C. 80a-24(d)) is amended by inserting a period immediately after "is the issuer" in the second sentence thereof and by striking out all that follows in such sentence.

SEC. 618. Section 26(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-26(b)) is amended by striking out "intend" and inserting in lieu thereof "intended".

SEC. 619. Section 26(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-26(c)) is amended by striking out "contract of agreement" and inserting in lieu thereof "contract or agreement".

SEC. 620. Section 28(a)(2)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a-28(a)(2)(B)) is amended by striking out "subsection" and inserting in lieu thereof "paragraph".

SEC. 621. Section 28(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-28(d)(2)) is amended by inserting "of" immediately before "subsection (a)".

SEC. 622. Section 36 of the Investment Company Act of 1940 (15 U.S.C. 80a-35) is amended—

(1) by striking out "loans" in paragraph (4) of subsection (b) and inserting in lieu thereof "loads";

(2) by redesignating subsection (d) as subsection (c); and

(3) in subsection (c) (as so redesignated), by striking out "through (c)" and inserting in lieu thereof "and (b)".

SEC. 623. Section 42 of the Investment Company Act of 1940 (15 U.S.C. 80a-41) is amended by redesignating subsection (e) as subsection (d).

SEC. 624. Section 53 of the Investment Company Act of 1940 (15 U.S.C. 80a-52) is amended by inserting a period in the first sentence thereof immediately after "1941" and by striking out everything that follows in such sentence.

SEC. 625. Section 54(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-53(a)) is amended by striking out "defined in sections" and inserting in lieu thereof "defined in section".

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SEC. 626. Section 55(a)(1)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a-54(a)(1)(B)) is amended by striking out "described in sections" and inserting in lieu thereof "described in section".

SEC. 627. Section 57(i) of the Investment Company Act of 1940 (15 U.S.C. 80a-56(i)) is amended by striking out "sections 17 (a) and (d)" each place it appears and inserting in lieu thereof "subsections (a) and (d) of section 17".

TITLE VII—AMENDMENTS TO THE INVESTMENT ADVISERS ACT OF 1940

SEC. 701. Section 202(a)(19) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(19)) is amended by striking out "the Canal Zone,".

SEC. 702. Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) is amended—

(1) by inserting "transfer agent," after "fiduciary," in subsection (e)(2)(B);

(2) by inserting "transfer agent," after "government securities dealer," in subsection (e)(3);

(3) by striking out "or seeking to become associated" in the first sentence of subsection (f) and inserting in lieu thereof "; seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated"; and

(4) by striking out "subsection (d)" in subsection (g) and inserting in lieu thereof "subsection (c) or subsection (e)".

SEC. 703. Section 205 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-5) is amended to read as follows:

"INVESTMENT ADVISORY CONTRACTS

"SEC. 205. (a) No investment adviser, unless exempt from registration pursuant to section 203(b), shall make use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, to enter into, extend, or renew any investment advisory contract, or in any way to perform any investment advisory contract

entered into, extended, or renewed on or after the effective date of this title, if such contract—

"(1) provides for compensation to the investment adviser on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;

"(2) fails to provide, in substance, that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract; or

"(3) fails to provide, in substance, that the investment adviser, if a partnership, will notify the other party to the contract of any change in the membership of such partnership within a reasonable time after such change.

"(b) Paragraph (1) of subsection (a) shall not—

"(1) be construed to prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates, or taken as of a definite date;

"(2) apply to an investment advisory contract with—

"(A) an investment company registered under title I of this Act, or

101 STAT. 1264

"(B) any other person (except a trust, governmental plan, collective trust fund, or separate account referred to in section 3(c)(11) of title I of this Act), provided that the contract relates to the investment of assets in excess of $1 million,

if the contract provides for compensation based on the asset value of the company or fund under management averaged over a specified period and increasing and decreasing proportionately with the investment performance of the company or fund over a specified period in relation to the investment record of an appropriate index of securities prices or such other measure of investment performance as the Commission by rule, regulation, or order may specify; or

"(3) apply with respect to any investment advisory contract between an investment adviser and a business development company, as defined in this title, if (A) the compensation provided for in such contract does not exceed 20 per centum of the realized capital gains upon the funds of the business development company over a specified period or as of definite dates, computed net of all realized capital losses and unrealized capital depreciation, and the condition of section 61(a)(3)(B)(iii) of title I of this Act is satisfied, and (B) the business development company does not have outstanding any option, warrant, or right issued pursuant to section 61(a)(3)(B) of title I of this Act and does not have a profit-sharing plan described in section 57(n) of title I of this Act.

"(c) For purposes of paragraph (2) of subsection (b), the point from which increases and decreases in compensation are measured shall be the fee which is paid or earned when the investment performance of such company or fund is equivalent to that of the index or other measure of performance, and an index of securities prices shall be deemed appropriate unless the Commission by order shall determine otherwise.

"(d) As used in paragraphs (2) and (3) of subsection (a), 'investment advisory contract' means any contract or agreement whereby a person agrees to act as investment adviser to or to manage any investment or trading account of another person other than an investment company registered under title I of this Act.".

SEC. 704. Section 209 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9) is amended by redesignating subsection (e) as subsection (d).

SEC. 705. Section 211(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-11(b)) is amended by striking out "the Federal Register Act" and inserting in lieu thereof "chapter 15 of title 44, United States Code,".

SEC. 706. Section 213(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–13(a)) is amended by striking out "sections 239 and 240 of the Judicial Code, as amended" and inserting in lieu thereof "section 1254 of title 28, United States Code".

SEC. 707. Section 214 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–14) is amended by striking out "sections 128 and 240 of the Judicial Code, as amended, and section 7, as amended, of the Act entitled, 'An Act to establish a court of appeals for the District of Columbia', approved February 9, 1893", and inserting in lieu thereof "sections 1254, 1291, 1292, and 1294 of title 28, United States Code". 101 STAT. 1265

TITLE VIII—AMENDMENTS RELATING TO GOVERNMENT SECURITIES ACT OF 1986

SEC. 801. (a) Section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(a)(1)(B)(i)) is amended by striking out "When" and inserting "When such". 15 USC 78o-5.

(b) Section 17(f)(1)(A) of such Act (15 U.S.C. 78q(f)(1)(A)) is amended by striking out "government securities," and inserting "securities issued pursuant to chapter 31 of title 31, United States Code,".

SEC. 802. Section 16(12) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78111(12)) is amended by inserting before the period at the end thereof the following: "other than a government securities broker or government securities dealer registered under section 15C(a)(1)(A) of the 1934 Act". 15 USC 78lll.

Approved December 4, 1987.

LEGISLATIVE HISTORY—S. 1452 (H.R. 2600):

HOUSE REPORTS: No. 100-296 accompanying H.R. 2600 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-105 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 133 (1987):
July 10, considered and passed Senate.
Sept. 10, H.R. 2600 considered and passed House; proceedings vacated and S. 1452, amended, passed in lieu.
Oct. 30, Senate concurred in House amendments with an amendment.
Nov. 20, House concurred in Senate amendment.

Public Law 100-217
100th Congress

101 STAT. 1454

An Act

To amend the Export-Import Bank Act of 1945.

Dec. 29, 1987
[H.R. 3289]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 15(c)(2) of the Export-Import Bank Act of 1945 (22 U.S.C. 635i-3(c)(2)) is amended by striking out "during fiscal year 1986" and inserting in lieu thereof "during fiscal years 1986, 1987, and 1988". 12 USC 635i-3.

Approved December 29, 1987.

LEGISLATIVE HISTORY—H.R. 3289:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 17, considered and passed House.
Dec. 18, considered and passed Senate.

101 STAT. 1458 Public Law 100-220
100th Congress

An Act

To provide congressional approval of the Governing International Fishery Agreement between the United States and Japan; to implement the provisions of Annex V to the International Convention for the Prevention of Pollution from Ships, 1973; to reauthorize the National Sea Grant College Program Act; to improve efforts to monitor, assess, and reduce the adverse impacts of driftnets; and for other purposes.

Dec. 29, 1987
[H.R. 3674]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

United States-Japan Fishery Agreement Approval Act of 1987. Environmental protection. 16 USC 1801 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Japan Fishery Agreement Approval Act of 1987".

SEC. 2. TABLE OF CONTENTS.

The contents of this Act are as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—APPROVAL OF GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH JAPAN

Sec. 1001. Approval of agreement.

TITLE II—PLASTIC POLLUTION RESEARCH AND CONTROL

Sec. 2001. Short title.
Sec. 2002. Effective date.
Sec. 2003. Preemption; additional State requirements.

Subtitle A—Amendments to Act to Prevent Pollution From Ships

Sec. 2101. Definitions.
Sec. 2102. Application of Act.
Sec. 2103. Pollution reception facilities.
Sec. 2104. Violations.
Sec. 2105. Civil penalties.
Sec. 2106. Proposed amendments to protocol.
Sec. 2107. Administration and enforcement; refuse record books; waste management plans; notification of crew and passengers.
Sec. 2108. Compliance with international law.

Subtitle B—Studies and Report

Sec. 2201. Compliance reports.
Sec. 2202. EPA study of methods to reduce plastic pollution.
Sec. 2203. Effects of plastic materials on the marine environment.
Sec. 2204. Plastic pollution public education program.

Subtitle C—New York Bight

Sec. 2301. New York Bight restoration plan.
Sec. 2302. New York Bight plastic study.
Sec. 2303. Reports.
Sec. 2304. Definitions.
Sec. 2305. Authorization of appropriations.

TITLE III—MARINE SCIENCE, TECHNOLOGY, AND POLICY DEVELOPMENT

101 STAT. 1459 Sec. 3001. Short title.

Subtitle A—National Sea Grant College Program Authorization

Sec. 3101. Short title.
Sec. 3102. Reference to the National Sea Grant College Program Act.
Sec. 3103. Declaration of policy.
Sec. 3104. Definitions.
Sec. 3105. Contracts and grants.
Sec. 3106. Sea grant strategic research program.
Sec. 3107. Fellowships.
Sec. 3108. Sea grant review panel.
Sec. 3109. Marine affairs and resource management improvement grants.
Sec. 3110. Authorization of appropriations.
Sec. 3111. Sea grant international program.

Subtitle B—Great Lakes Mapping

Sec. 3201. Short title.
Sec. 3202. Great Lakes shoreline mapping plan.
Sec. 3203. Preparation of Great Lakes shoreline maps.
Sec. 3204. Contract authority.
Sec. 3205. Definitions.
Sec. 3206. Authorization of appropriations.

TITLE IV—DRIFTNET IMPACT MONITORING, ASSESSMENT, AND CONTROL

Sec. 4001. Short title.
Sec. 4002. Findings.
Sec. 4003. Definitions.
Sec. 4004. Monitoring agreements.
Sec. 4005. Impact report.
Sec. 4006. Enforcement agreements.
Sec. 4007. Evaluations and recommendations.
Sec. 4008. Construction with other laws.
Sec. 4009. Authorization of appropriations.

TITLE V—RED TIDE CONTAMINATION

Sec. 5001. Declaration of disaster.
Sec. 5002. Provision of assistance.
Sec. 5003. Recent North Carolina Coast red tide contamination, defined.

TITLE I—APPROVAL OF GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH JAPAN

SEC. 1001. APPROVAL OF AGREEMENT.

16 USC 1823 note.

Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823), the governing international fishery agreement between the Government of the United States of America and the Government of Japan Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States, dated November 17, 1987—

(1) is approved by Congress as a governing international fishery agreement for the purposes of such Act; and

(2) shall enter into force and effect with respect to the United States on the date of the enactment of this Act.

101 STAT. 1460

TITLE II—PLASTIC POLLUTION RESEARCH AND CONTROL

Marine Plastic Pollution Research and Control Act of 1987.
33 USC 1901 note.

SEC. 2001. SHORT TITLE.

This title may be cited as the "Marine Plastic Pollution Research and Control Act of 1987".

SEC. 2002. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), this title shall be effective on the date on which Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, enters into force for the United States.

(b) EXCEPTIONS.—Sections 2001, 2002, 2003, 2108, 2202, 2203, 2204, and subtitle C of this title shall be effective on the date of the enactment of this title.

(c) ISSUANCE OF REGULATIONS.—

(1) IN GENERAL.—The authority to prescribe regulations pursuant to this title shall be effective on the date of enactment of this title.

(2) EFFECTIVE DATE OF REGULATIONS.—Any regulation prescribed pursuant to this title shall not be effective before the effective date of the provision of this title under which the regulation is prescribed.

SEC. 2003. PREEMPTION; ADDITIONAL STATE REQUIREMENTS.

(a) PREEMPTION.—Except as specifically provided in this title, nothing in this title shall be interpreted or construed to supersede or preempt any other provision of Federal or State law, either statutory or common.

(b) ADDITIONAL STATE REQUIREMENTS.—Nothing in this title shall be construed or interpreted as preempting any State from imposing any additional requirements.

Subtitle A—Amendments to Act to Prevent Pollution From Ships

SEC. 2101. DEFINITIONS.

33 USC 1901.

Section 2 of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) is amended as follows:

(1) "(a)" is inserted after "SEC. 2.".

(2) Subsection (a)(1) (as redesignated) is amended to read as follows:

"(1) 'MARPOL Protocol' means the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, and includes the Convention;".

(3) Subsection (a)(2) (as redesignated) is amended by striking all after "and" the second time it appears and inserting in lieu thereof the following: "Annexes I, II, and V thereto, including any modification or amendments to the Convention, Protocols, or Annexes which have entered into force for the United States;".

(4) Subsection (a)(3) (as redesignated) is amended by inserting "and 'garbage' " after "discharge".

101 STAT. 1461

(5) The following is added at the end of section 2:

"(b) For purposes of this Act, the requirements of Annex V shall apply to the navigable waters of the United States, as well as to all other waters and vessels over which the United States has jurisdiction.".

33 USC 1902.

SEC. 2102. APPLICATION OF ACT.

(a) IN GENERAL.—Section 3(a) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(a) This Act shall apply—

"(1) to a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located;

"(2) with respect to Annexes I and II to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters of the United States;

"(3) with respect to the requirements of Annex V to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters or the exclusive economic zone of the United States; and

"(4) with respect to regulations prescribed under section 6 of this Act, any port or terminal in the United States.".

(b) EXCLUSIONS.—Section 3(b) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), this Act shall not apply to—

"(A) a warship, naval auxiliary, or other ship owned or operated by the United States when engaged in noncommercial service; or

"(B) any other ship specifically excluded by the MARPOL Protocol.

"(2)(A) Notwithstanding any provision of the MARPOL Protocol, and subject to subparagraph (B) of this paragraph, the requirements of Annex V to the Convention shall apply after 5 years after the effective date of this paragraph to a ship referred to in paragraph (1)(A).

"(B) This paragraph shall not apply during time of war or a declared national emergency.".

(c) REGULATIONS.—Section 3(c) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(c) The Secretary shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol, including regulations conforming to and giving effect to the requirements of Annex V as they apply under subsection (a) of section 3, to ensure that their treatment is not more favorable than that accorded ships to parties to the MARPOL Protocol.".

SEC. 2103. POLLUTION RECEPTION FACILITIES. 33 USC 1905.

(a) DETERMINATION OF ADEQUACY OF FACILITIES.—Section 6(a) of the Act to Prevent Pollution from Ships is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) in subsection (a)(1), as so redesignated, by striking "reception facilities of a port or terminal" and inserting in lieu thereof the following: "a port's or terminal's reception facilities for mixtures containing oil or noxious liquid substances"; and

(3) by adding at the end the following:

"(2) The Secretary, after consulting with appropriate Federal agencies, shall establish regulations setting criteria for determining the adequacy of reception facilities for garbage at a port or terminal, and stating such additional measures and requirements as are appropriate to ensure such adequacy. Persons in charge of ports and terminals shall provide reception facilities, or ensure that such facilities are available, for receiving garbage in accordance with those regulations.". Regulations.

101 STAT. 1462

(b) CONSIDERATION OF NUMBER AND TYPES OF SHIPS.—Section 6(b) of the Act to Prevent Pollution from Ships is amended by striking "terminal," the first time it appears and inserting in lieu thereof the following: "terminal, and in establishing regulations under subsection (a) of this section," and by striking "seagoing ships" and inserting in lieu thereof the following: "ships or seagoing ships". 33 USC 1905.

(c) CERTIFICATE ISSUANCE.—Section 6(c) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(c)(1) If reception facilities of a port or terminal meet the requirements of Annex V to the Convention and the regulations prescribed under subsection (a)(1), the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant.

"(2) If reception facilities of a port or terminal meet the requirements of Annex V to the Convention and the regulations prescribed under subsection (a)(2), the Secretary may, after consultation with appropriate Federal agencies, issue a certificate to that effect to the person in charge of the port or terminal.

"(3) A certificate issued under this subsection—

"(A) is valid until suspended or revoked by the Secretary for cause or because of changed conditions; and

"(B) shall be available for inspection upon the request of the master, other person in charge, or agent of a ship using or intending to use the port or terminal.

"(4) The suspension or revocation of a certificate issued under this subsection may be appealed to the Secretary and acted on by the Secretary in the manner prescribed by regulation.".

(d) ENTRY DENIAL.—Section 6(e) of the Act to Prevent Pollution from Ships is amended—

(1) by inserting "(1)" immediately after "(e)";

(2) by striking "(1)" and inserting in lieu thereof "(A)";
(3) by striking "(2)" and inserting in lieu thereof "(B)";
(4) in subparagraph (A), as so redesignated, by striking "the MARPOL Protocol" and inserting in lieu thereof the following: "Annexes I and II of the Convention"; and
(5) by adding at the end the following:

"(2) The Secretary may deny the entry of a ship to a port or terminal required by regulations issued under this section to provide adequate reception facilities for garbage if the port or terminal is not in compliance with those regulations.".

33 USC 1907.

SEC. 2104. VIOLATIONS.

(a) SHIP INSPECTIONS.—Section 8(c) of the Act to Prevent Pollution from Ships is amended by—
(1) striking "(1)" and inserting "(A)";
(2) striking "(2)" and inserting "(B)";
(3) inserting "(2)" immediately after "(c)";
(4) in the last sentence of paragraph (2) (as redesignated), striking "If a report made under this subsection involves a ship,
101 STAT. 1463
other than one of United States registry or nationality or one operated under the authority of the United States, the" and inserting "The"; and
(5) inserting before paragraph (2) (as redesignated) the following: "(1) This subsection applies to inspections relating to possible violations of Annex I or Annex II to the Convention by any seagoing ship referred to in section 3(a)(2) of this Act.".

33 USC 1907.

(b) SHIP INSPECTIONS OTHER THAN AT PORT OR TERMINAL.—Section 8 of the Act to Prevent Pollution from Ships is amended by redesignating subsection (d) as subsection (f) and inserting after subsection (c) the following:

"(d)(1) The Secretary may inspect a ship referred to in section 3(a)(3) of this Act to verify whether the ship has disposed of garbage in violation of Annex V to the Convention or this Act.

"(2) If an inspection under this subsection indicates that a violation has occurred, the Secretary may undertake enforcement action under section 9 of this Act.

"(e)(1) The Secretary may inspect at any time a ship of United States registry or nationality or operating under the authority of the United States to which the MARPOL Protocol applies to verify whether the ship has discharged a harmful substance or disposed of garbage in violation of that Protocol or this Act.

"(2) If an inspection under this subsection indicates that a violation of the MARPOL Protocol has occurred the Secretary may undertake enforcement action under section 9 of this Act.".

33 USC 1908.

SEC. 2105. CIVIL PENALTIES.

(a) PAYMENT FOR INFORMATION.—
(1) INFORMATION LEADING TO CONVICTION.—Section 9(a) of the Act to Prevent Pollution From Ships is amended by inserting after the first sentence the following: "In the discretion of the Court, an amount equal to not more than ½ of such fine may be paid to the person giving information leading to conviction.".
(2) INFORMATION LEADING TO ASSESSMENT OF PENALTY.—Section 9(b) of the Act to Prevent Pollution From Ships is amended by adding at the end the following: "An amount equal to not more than ½ of such penalties may be paid by the Secretary to the person giving information leading to the assessment of such penalties.".

(b) REFERENCE OF VIOLATION TO COUNTRY OF REGISTRY OR NATIONALITY.—Section 9(f) of the Act to Prevent Pollution from Ships is amended by striking "to that country" and inserting "to the government of the country of the ship's registry or nationality, or under whose authority the ship is operating".

SEC. 2106. PROPOSED AMENDMENTS TO PROTOCOL.

International organizations.
33 USC 1909.

Section 10 of the Act to Prevent Pollution from Ships is amended—

(1) in subsection (a), by striking "Inter-Governmental Maritime Consultative Organization" and inserting "International Maritime Organization"; and

(2) in subsection (b), by striking "Annex I or II, appendices to the Annexes, or Protocol I of the MARPOL Protocol," and inserting "Annex I, II, or V to the Convention, appendices to those Annexes, or Protocol I of the Convention", and by striking "Inter-Governmental Maritime Consultative Organization" and inserting "International Maritime Organization".

101 STAT. 1464

SEC. 2107. ADMINISTRATION AND ENFORCEMENT; REFUSE RECORD BOOKS; WASTE MANAGEMENT PLANS; NOTIFICATION OF CREW AND PASSENGERS.

33 USC 1903.

(a) ADMINISTRATION AND ENFORCEMENT, GENERALLY.—Section 4(a) of the Act to prevent pollution from ships is amended to read as follows:

"(a) Unless otherwise specified in this Act, the Secretary shall administer and enforce the MARPOL Protocol and this Act. In the administration and enforcement of the MARPOL Protocol and this Act, Annexes I and II of the Convention apply only to seagoing ships.".

(b) REFUSE RECORD BOOKS; WASTE MANAGEMENT PLANS; NOTIFICATION OF CREW AND PASSENGERS.—Section 4(b) of the Act to Prevent Pollution from Ships is amended by—

(1) inserting "(1)" after "(b)"; and

(2) adding at the end the following:

"(2) The Secretary of the department in which the Coast Guard is operating shall—

"(A) within 1 year after the effective date of this paragraph, prescribe regulations which— *Regulations.*

"(i) require certain ships described in section 3(a)(1) to maintain refuse record books and shipboard management plans, and to display placards which notify the crew and passengers of the requirements of Annex V to the Convention; and

"(ii) specify the ships described in section 3(a)(1) to which the regulations apply;

"(B) seek an international agreement or international agreements which apply requirements equivalent to those described in subparagraph (A)(i) to all vessels subject to Annex V to the Convention; and *International agreements.*

"(C) within 2 years after the effective date of this paragraph, report to the Congress— *Reports.*

"(i) regarding activities of the Secretary under subparagraph (B); and

"(ii) if the Secretary has not obtained agreements pursuant to subparagraph (B) regarding the desirability of applying the requirements described in subparagraph (A)(i) to all vessels described in section 3(a) which call at United States ports.".

SEC. 2108. COMPLIANCE WITH INTERNATIONAL LAW.

The Act to Prevent Pollution from Ships is amended by adding at the end the following:

"SEC. 17. Any action taken under this Act shall be taken in accordance with international law.". 33 USC 1912.

Subtitle B—Studies and Report

33 USC 1902 note.

SEC. 2201. COMPLIANCE REPORTS.

(a) IN GENERAL.—Within 1 year after the effective date of this section, and biennially thereafter for a period of 6 years, the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of Agriculture and the Secretary of
101 STAT. 1465 Commerce, shall report to the Congress regarding compliance with Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, in United States waters.

Contracts.

(b) REPORT ON INABILITY TO COMPLY.—Within 3 years after the effective date of this section, the head of each Federal agency that operates or contracts for the operation of any ship referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships that may not be able to comply with the requirements of that section shall report to the Congress describing—

(1) the technical and operational impediments to achieving that compliance;

(2) an alternative schedule for achieving that compliance as rapidly as is technologically feasible;

(3) the ships operated or contracted for operation by the agency for which full compliance with section 3(b)(2)(A) is not technologically feasible; and

(4) any other information which the agency head considers relevant and appropriate.

(c) CONGRESSIONAL ACTION.—Upon receipt of the compliance report under subsection (b), the Congress shall modify the applicability of Annex V to ships referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships, as may be appropriate with respect to the requirements of Annex V to the Convention.

42 USC 6981 note.

SEC. 2202. EPA STUDY OF METHODS TO REDUCE PLASTIC POLLUTION.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Commerce, shall commence a study of the adverse effects of the improper disposal of plastic articles on the environment and on waste disposal, and the various methods to reduce or eliminate such adverse effects.

Wildlife. Safety.

(b) SCOPE OF STUDY.—A study under this section shall include the following:

(1) A list of improper disposal practices and associated specific plastic articles that occur in the environment with sufficient frequency to cause death or injury to fish or wildlife, affect adversely the habitat of fish or wildlife, contribute significantly to aesthetic degradation or economic losses in coastal and waterfront areas, endanger human health or safety, or cause other significant adverse impacts.

(2) A description of specific statutory and regulatory authority available to the Administrator of the Environmental Protection Agency, and the steps being taken by the Administrator, to reduce the amount of plastic materials that enter the marine and aquatic environment.

(3) An evaluation of the feasibility and desirability of substitutes for those articles identified under paragraph (1), comparing the environmental and health risks, costs, disposability, durability, and availability of such substitutes.

(4) An evaluation of the impacts of plastics on the solid waste stream relative to other solid wastes, and methods to reduce those impacts, including recycling.

(5) An evaluation of the impact of plastics on the solid waste stream relative to other solid wastes, and methods to reduce those impacts, including—

(A) the status of a need for public and private research to develop and market recycled plastic articles;

(B) methods to facilitate the recycling of plastic materials by identifying types of plastic articles to aid in their sorting,

and by standardizing types of plastic materials, taking into account trade secrets and protection of public health; 101 STAT. 1466

(C) incentives, including deposits on plastic containers, to increase the supply of plastic material for recycling and to decrease the amount of plastic debris, especially in the marine environment;

(D) the effect of existing tax laws on the manufacture and distribution of virgin plastic materials as compared with recycled plastic materials; and

(E) recommendations on incentives and other measures to promote new uses for recycled plastic articles and to encourage or require manufacturers of plastic articles to consider re-use and recycling in product design.

(6) An evaluation of the feasibility of making the articles identified under paragraph (1) from degradable plastics materials, taking into account—

(A) the risk to human health and the environment that may be presented by fragments of degradable plastic articles and the properties of the end-products of the degradation, including biotoxicity, bioaccumulation, persistence, and environmental fate;

(B) the efficiency and variability of degradation due to differing environmental and biological conditions; and

(C) the cost and benefits of using degradable articles, including the duration for which such articles were designed to remain intact.

(c) CONSULTATION.—In carrying out the study required by this section, the Administrator shall consult with the heads of other appropriate Federal agencies, representatives of affected industries, consumer and environment interest groups, and the public.

(d) REPORT.—Within 18 months after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall report to the Congress the results of the study required by this section, including recommendations in connection therewith.

SEC. 2203. EFFECTS OF PLASTIC MATERIALS ON THE MARINE ENVIRONMENT.

Reports.

Not later than September 30, 1988, the Secretary of Commerce shall submit to the Congress a report on the effects of plastic materials on the marine environment. The report shall—

(1) identify and quantify the harmful effects of plastic materials on the marine environment;

(2) assess the specific effects of plastic materials on living marine resources in the marine environment;

(3) identify the types and classes of plastic materials that pose the greatest potential hazard to living marine resources;

(4) analyze, in consultation with the Director of the National Bureau of Standards, plastic materials which are claimed to be capable of reduction to environmentally benign submits under the action of normal environmental forces (including biological decomposition, photodegradation, and hydrolysis); and

(5) recommend legislation which is necessary to prohibit, tax, or regulate sources of plastic materials that enter the marine environment.

SEC. 2204. PLASTIC POLLUTION PUBLIC EDUCATION PROGRAM.

42 USC 6981 note.

(a) OUTREACH PROGRAM.—

(1) IN GENERAL.—Not later than April 1, 1988, the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall jointly commence and thereafter conduct for a period of at least 3 years, a public outreach program to educate the public (including recreational boaters, fishermen, and other users of the marine environment) regarding— 101 STAT. 1467

(A) the harmful effects of plastic pollution;

(B) the need to reduce such pollution;
(C) the need to recycle plastic materials; and
(D) the need to reduce the quantity of plastic debris in the marine environment.

(2) AUTHORIZED ACTIVITIES.—A public outreach program under paragraph (1) may include—
(A) workshops with interested groups;
(B) public service announcements;
(C) distribution of leaflets and posters; and
(D) any other means appropriate to educating the public.

Voluntarism.

(b) CITIZEN POLLUTION PATROLS.—The Secretary of Commerce, along with the Administrator of the Environmental Protection Agency and the Secretary of the Department in which the Coast Guard is operating, shall conduct a program to encourage the formation of volunteer groups, to be designated as "Citizen Pollution Patrols", to assist in monitoring, reporting, cleanup, and prevention of ocean and shoreline pollution.

33 USC 2267 note.

Subtitle C—New York Bight

SEC. 2301. NEW YORK BIGHT RESTORATION PLAN.

State and local governments.

(a) IN GENERAL.—Within 3 years after the effective date of this section, the Administrator, in consultation with the Administrator of the National Oceanic and Atmospheric Administration and other Federal, State, and interstate agencies, shall prepare a New York Bight Restoration Plan. In preparing such plan, the Administrator shall seek the views and comments of interested persons and hold public hearings in States to be affected by the plan. The first such public hearing shall occur not later than 8 months after the effective date of this section.

(b) SCOPE OF PLAN.—The New York Bight Restoration Plan prepared under subsection (a) shall, at a minimum—

(1) identify and assess the impact of pollutant inputs, such as treated and untreated sewage discharge, industrial outfalls, agricultural and urban runoff, storm sewer overflow, upstream contaminant sources, atmospheric fallout, and dumping, that are affecting the water quality and marine resources of the New York Bight;

(2) identify those uses in the New York Bight and other areas that are being adversely affected by such pollutant inputs;

(3) determine the fate of the contaminants from such pollutant inputs and their effect on human health and the marine environment;

(4) identify technologies and management practices necessary for controlling such pollutant inputs;

(5) identify the costs of implementing such technologies and practices and any impediments to such implementation;

101 STAT. 1468

(6) devise a schedule of economically feasible projects to implement such technologies and practices and to remove such impediments;

State and local governments.

(7) develop recommendations for funding and coordinating the various Federal, State, and local government programs necessary to implement the projects referred to in paragraph (6); and

(8) comprehensively assess alternatives to dumping of municipal sludge and the burning of timber in the New York Bight.

SEC. 2302. NEW YORK BIGHT PLASTIC STUDY.

Reports.

The Administrator shall conduct a study of problems associated with plastic debris in the New York Bight, with specific attention to the effect of such debris on beaches, marine life, the environment, and coastal waters, and shall report to the Congress within 6 months after the effective date of this section with recommendations for the elimination of the threats posed by such plastic debris.

SEC. 2303. REPORTS.

(a) SCHEDULE FOR PRELIMINARY REPORTS AND RESTORATION PLAN.—Not later than 6 months after the effective date of this section, the Administrator shall submit to the Congress a detailed schedule (including associated funding requirements) for completing preliminary reports and the New York Bight Restoration Plan under this subtitle.

(b) PRELIMINARY REPORT ON ALTERNATIVES.—Not later than the earlier of January 1, 1990, or the date of any decision by the Administrator affecting the redesignation of the 106-mile Ocean Waste Dump site for municipal sludge or the designation of any additional municipal sludge dump site, the Administrator shall submit to the Congress a preliminary report assessing alternatives to the ocean dumping of municipal sludge.

(c) PRELIMINARY REPORT ON POLLUTANT INPUTS.—Not later than 1 year after the effective date of this section, the Administrator shall submit to the Congress a preliminary report on the examinations required under section 2301(b)(1), (b)(2), and (b)(3).

(d) PRELIMINARY REPORT ON CONTROL MEASURES.—Not later than 2 years after the effective date of this section, the Administrator shall submit to the Congress a preliminary report on the examinations required under section 2301(b)(4), (b)(5), (b)(6), and (b)(7).

(e) SUBMISSION OF RESTORATION PLAN TO CONGRESS.—Not later than 3 years after the effective date of this section, the Administrator shall submit to the Congress the New York Bight Restoration Plan prepared under section 2301.

SEC. 2304. DEFINITIONS.

For purposes of this subtitle—

(1) NEW YORK BIGHT.—The term "New York Bight" means an area comprised of the Hudson-Raritan Estuary and waters of the Atlantic Ocean—

(A) west of Montauk, Long Island, New York (71 degrees, 50 minutes west longitude);

(B) north of Cape May, New Jersey; and

(C) extending seaward to the edge of the Continental Shelf.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

101 STAT. 1469

SEC. 2305. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator not more than $3,000,000 for carrying out this subtitle during fiscal years 1988, 1989, and 1990.

TITLE III—MARINE SCIENCE, TECHNOLOGY, AND POLICY DEVELOPMENT

Marine Science, Technology, and Policy Development Act of 1987. 33 USC 1121 note.

SEC. 3001. SHORT TITLE.

This title may be cited as the "Marine Science, Technology, and Policy Development Act of 1987".

Subtitle A—National Sea Grant College Program Authorization

National Sea Grant College Program Authorization Act of 1987. 33 USC 1121 note. Education. Research and development.

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the "National Sea Grant College Program Authorization Act of 1987".

SEC. 3102. REFERENCE TO THE NATIONAL SEA GRANT COLLEGE PROGRAM ACT.

Unless otherwise provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, section, subsection, or other provision, the reference shall be considered to be made to a title, section, subsection, or other provision of the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.).

SEC. 3103. DECLARATION OF POLICY.

Section 202 (33 U.S.C. 1121) is amended as follows:

(1) Subsection (a) is amended—

(A) by redesignating paragraphs (1), (2), and (3) as paragraphs (4), (5), and (6), respectively; and

(B) by inserting before paragraph (4) (as redesignated) the following:

"(1) The national interest requires a strategy to—

"(A) provide for the understanding and wise use of ocean, coastal, and Great Lakes resources and the environment;

"(B) foster economic competitiveness;

"(C) promote public stewardship and wise economic development of the coastal ocean and its margins, the Great Lakes, and the exclusive economic zone;

"(D) understand global environmental processes; and

"(E) promote domestic and international cooperative solutions to ocean, coastal, and Great Lakes issues.

"(2) Investment in a strong program of research, education, training, technology transfer, and public service is essential for this strategy.

"(3) The expanding use and development of ocean, coastal, and Great Lakes resources resulting from growing coastal area populations and the increasing pressures on the coastal and Great Lakes environment challenge the ability of the United States to manage such resources wisely.".

101 STAT. 1470

(2) Subsection (b) is amended by striking "ocean and coastal resources" and all that follows through the end of such subsection and inserting in lieu thereof the following: "ocean, coastal, and Great Lakes resources by providing assistance to promote a strong educational base, responsive research and training activities, broad and prompt dissemination of knowledge and techniques, and multidisciplinary approaches to environmental problems.".

SEC. 3104. DEFINITIONS.

(a) IN GENERAL.—Section 203 (33 U.S.C. 1122) is amended—

(1) by striking paragraph (2);

(2) by renumbering paragraph (3) as paragraph (2) and inserting immediately thereafter the following:

"(3) the term 'director of a sea grant college' means a person designated by their university or institution to direct a sea grant college, programs, or regional consortium.";

(3) by striking paragraphs (6) and (7) and inserting in lieu thereof the following:

"(6) The term 'ocean, coastal, and Great Lakes resources' means the resources that are located in, derived from, or traceable to, the seabed, subsoil, and waters of—

"(A) the coastal zone, as defined in section 304(1) of the Coastal Zone Management Act (16 U.S.C. 1453(1));

"(B) the Great Lakes;

"(C) the territorial sea;

"(D) the exclusive economic zone;

"(E) the Outer Continental Shelf; and

"(F) the high seas.

"(7) The term 'resource' means—

"(A) living resources (including natural and cultured plant life, fish, shellfish, marine mammals, and wildlife);

"(B) nonliving resources (including energy sources, minerals, and chemical substances);

"(C) the habitat of a living resource, the coastal space, the ecosystems, the nutrient-rich areas, and the other components of the marine environment that contribute to or provide (or which are capable of contributing to or providing) recreational, scenic, esthetic, biological, habitational, commercial, economic, or conservation values; and

"(D) man-made, tangible, intangible, actual, or potential resources."; and

(4) by adding at the end the following:

"(15) The term 'Under Secretary' means the Under Secretary of Commerce for Oceans and Atmosphere.".

(b) CONFORMING AMENDMENTS RELATING TO GREAT LAKES RESOURCES.—

(1) Each of the following provisions of the National Sea Grant College Program Act are amended by striking "ocean and coastal resources" each place it appears and inserting in lieu thereof "ocean, coastal, and Great Lakes resources":

(A) Paragraphs (4) and (5) of section 202(a) (as redesignated by section 3103(1)(A) of this subtitle). 33 USC 1121.

(B) Section 202(c).

(C) Paragraphs (4) and (11) of section 203.

(D) Sections (b)(1)(A) and (d)(3) of section 204. 33 USC 1123.

(E) Paragraphs (2)(A) and (3) (A) and (B) of section 207(a). 33 USC 1126.

(F) Paragraph (1) of section 209(c). 33 USC 1128.

(G) Section 210. 33 USC 1129.

(2) Paragraph (5) of section 204(c) is amended by striking "ocean and coastal resource" and inserting in lieu thereof "ocean, coastal, and Great Lakes resources". 33 USC 1123.

101 STAT. 1471

(c) CONFORMING AMENDMENTS RELATING TO UNDER SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE.—Section 204(c) is amended by striking "Administrator" each place it appears and inserting in lieu thereof "Under Secretary".

SEC. 3105. CONTRACTS AND GRANTS.

(a) MINIMIZATION OF PRIOR APPROVAL REQUIREMENTS.—Section 205 (33 U.S.C. 1124) is amended by adding at the end of subsection (d)(1) the following: "Terms, conditions, and requirements imposed by the Secretary under this paragraph shall minimize any requirement of prior Federal approval.".

(b) ACCEPTANCE OF FUNDS FROM OTHER FEDERAL AGENCIES.—Section 204(d)(6) is amended by striking "under section 205(a)".

SEC. 3106. SEA GRANT STRATEGIC RESEARCH PROGRAM.

(a) IN GENERAL.—Section 206 (33 U.S.C. 1125) is amended to read as follows:

"SEC. 206. STRATEGIC MARINE RESEARCH PROGRAM.

"(a) GRANT AND CONTRACT AUTHORITY.—The Under Secretary may make grants and enter into contracts to carry out the strategic research program provided for under this section. A grant or contract may cover up to 100 percent of the cost of the research for which the grant or contract is made or awarded.

"(b) STRATEGIC RESEARCH PLAN.—Within 1 year after the effective date of the Marine Science, Technology, and Policy Development Act of 1987, and every 3 years after that date, the Under Secretary shall develop and publish in the Federal Register, a sea grant strategic research plan for the next 3 years. The plan shall— Federal Register, publication.

"(1) identify and describe a limited number of priority areas for strategic research in fields associated with ocean, coastal, and Great Lakes resources; and

"(2) indicate the goals and timetables for the research in those fields.

"(c) CONSULTATION AND CONGRESSIONAL REVIEW.—

"(1) CONSULTATION.—In developing each sea grant strategic research plan, the Under Secretary shall consult with relevant Federal agencies; sea grant directors; other representatives of sea grant colleges, sea grant programs, and sea grant regional consortia; non-governmental marine scientists; and other interested parties, both public and private.

"(2) SUBMITTAL TO CONGRESS.—Upon publication of each sea grant strategic research plan under subsection (b), the Under Secretary shall submit the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(3) RESTRICTION ON GRANTS AND CONTRACTS.—The Under Secretary shall not make a grant or enter into a contract under this section for priority area research under a strategic research plan before the 45th day after the date of receipt of the plan by the Committees referred to in paragraph (2).

101 STAT. 1472

"(d) CRITERIA FOR AREAS TO BE INCLUDED IN PLAN.—In selecting priority areas for inclusion in the sea grant strategic research plan, the Under Secretary shall concentrate on—

"(1) critical resource and environmental areas that are precluded from adequate funding under other provisions of this Act because of—

"(A) their national, international, or global scope, fundamental nature, or long-range aspects;

"(B) the scale of the needed research effort; or

"(C) the need for the broadest possible university involvement; and

"(2) areas where the strength and capabilities of the sea grant colleges, sea grant programs, and sea grant regional consortia in mobilizing talent for sustained programmatic research and technology transfer make them particularly qualified to manage strategic marine research under this section.

"(e) CONTRACT AND GRANT REQUIREMENTS.—Subsections (c) and (d) of section 205 apply to applications for grants or contracts, and to grants made and contracts entered into, under this section.

State and local governments. 33 USC 1125 note.

(b) REGULATIONS.—Within 1 year after the effective date of this title, the Under Secretary of Commerce for Oceans and Atmosphere shall adopt rules and regulations in accordance with section 553 of title 5, United States Code, to carry out section 206(a), after giving notice and opportunity for full participation by relevant Federal agencies; State agencies; local governments; regional organizations; nongovernmental marine scientists; sea grant directors and other representatives of sea grant colleges, programs, and regional consortia; and other interested parties, both public and private.

SEC. 3107. FELLOWSHIPS.

Section 208 (33 U.S.C. 1127) is amended to read as follows:

"SEC. 208. FELLOWSHIPS.

"(a) IN GENERAL.—To carry out the educational and training objectives of this Act, the Under Secretary shall support a program of fellowships for qualified individuals at the graduate and postgraduate level. The fellowships shall be related to ocean, coastal, and Great Lakes resources and awarded pursuant to guidelines established by the Under Secretary.

"(b) DEAN JOHN A. KNAUSS MARINE POLICY FELLOWSHIP.—The Under Secretary may award marine policy fellowships to support the placement of individuals at the graduate level of education in fields related to ocean, coastal and Great Lakes resources in positions with the executive and legislative branches of the United States Government. A fellowship awarded under this subsection shall be for a period of not more than 1 year.

"(c) POSTDOCTORAL FELLOWSHIPS.—The Under Secretary shall establish and administer a program of postdoctoral fellowships to accelerate research in critical subject areas. The fellowship awards—

"(1) shall be for 2 years;
"(2) may be renewed once for not more than 2 years;
"(3) shall be awarded on a nationally competitive basis;
"(4) may be used at any institution of post-secondary education involved in the national sea grant college program;
"(5) shall be for up to 100 percent of the total cost of the fellowship;
"(6) may be made for any of the priority areas of research identified in the sea grant strategic research plan in effect under section 206; and
"(7) may be made to recipients of terminal professional degrees, as well as doctoral degree recipients.".

101 STAT. 1473

SEC. 3108. SEA GRANT REVIEW PANEL.

Section 209 (33 U.S.C. 1128) is amended as follows:

(1) Subsection (b) is amended—

(A) by striking the matter preceding paragraph (1) and inserting "The Panel shall advise the Secretary, the Under Secretary, and the Director concerning—"; and

(B) by inserting "and section 3 of the Sea Grant Program Improvement Act of 1976" before the semicolon at the end of subsection (b)(1).

(2) Subsection (c) is amended—

(A) by striking the second sentence of paragraph (1) and inserting in lieu thereof the following: "The Director and a director of a sea grant program who is elected by the various directors of sea grant programs shall serve as nonvoting members of the panel.";

(B) by striking "five" in paragraph (1) and inserting in lieu thereof "8";

(C) by adding at the end of paragraph (2) the following: "At least once each year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the panel."; and

Federal Register, publication.

(D) by striking "office, or until 90 days after such date, whichever is earlier." in paragraph (3) and inserting in lieu thereof "office.".

SEC. 3109. MARINE AFFAIRS AND RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

Section 211 (33 U.S.C. 1130) is amended to read as follows:

"SEC. 211. MARINE AFFAIRS AND RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

"(a) IN GENERAL.—The Under Secretary may provide annual grants during fiscal years 1988 through 1990 to institutions eligible under subsection (b) to assist the institutions in achieving the following objectives:

"(1) Development and improvement of curriculum offerings in marine affairs and resource management at the graduate level, and development of related educational materials.

"(2) Fostering support of graduate students, through scholarships and teaching and research fellowships, in marine affairs and resource management.

"(3) Increasing multidisciplinary research in marine resources management.

"(b) ELIGIBILITY.—An institution is eligible for grants under this section if it is a sea grant college, sea grant regional consortium, or institution of higher education having a sea grant program that—

"(1) maintains a graduate program in, or institute or center for, marine affairs and resource management;

"(2) has prepared a development plan to improve and strengthen that program, institute, or center; and

101 STAT. 1474

"(3) has demonstrated, to the extent consistent with State law, its intention to support such improved and strengthened education and training after financial assistance under this section has ceased.

"(c) APPLICATIONS.—Applications for grants under this section shall be made in such manner as the Under Secretary shall require.

"(d) LIMITATIONS ON GRANTS.—No grant in excess of $400,000 may be made to an eligible institution under this section for any year, and no more than 2 annual grants may be made to any such institution.

"(e) REPORT BY GRANT RECIPIENT.—Each institution receiving a grant under this subsection shall report to the Under Secretary, in such manner as the Under Secretary may require annually, and within 90 days following the termination of the grant, regarding the activities conducted with the grant.".

SEC. 3110. AUTHORIZATION OF APPROPRIATIONS.

Section 212 (33 U.S.C. 1131) is amended to read as follows:

"SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated to carry out the provisions of this Act other than sections 206 and 211, an amount—

"(1) for fiscal year 1988, not to exceed $41,500,000;

"(2) for fiscal year 1989, not to exceed $50,500,000; and

"(3) for fiscal year 1990, not to exceed $51,000,000.

"(b) STRATEGIC MARINE RESEARCH.—There is authorized to be appropriated to carry out section 206 and section 208(c), an amount—

"(1) for fiscal year 1988, not to exceed $500,000;

"(2) for fiscal year 1989, not to exceed $5,000,000; and

"(3) for fiscal year 1990, not to exceed $10,000,000.

"(c) MARINE AFFAIRS AND RESOURCE MANAGEMENT GRANTS.—There is authorized to be appropriated to carry out section 211, an amount—

"(1) for fiscal year 1988, not to exceed $2,000,000;

"(2) for fiscal year 1989, not to exceed $2,500,000; and

"(3) for fiscal year 1990, not to exceed $3,000,000.

"(d) AVAILABILITY OF SUMS.—Sums appropriated pursuant to this section shall remain available until expended.

"(e) REVERSION OF UNOBLIGATED AMOUNTS.—The amount of any grant, or portion of a grant, made to a person under any section of this Act that is not obligated by that person during the first fiscal year for which it was authorized to be obligated or during the next fiscal year thereafter shall revert to the Secretary. The Secretary shall add that reverted amount to the funds available for grants under the section for which the reverted amount was originally made available.".

SEC. 3111. SEA GRANT INTERNATIONAL PROGRAM.

Section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a) is amended to read as follows:

"SEC. 3. SEA GRANT INTERNATIONAL PROGRAM.

Contracts.

"(a) IN GENERAL.—The Under Secretary of Commerce for Oceans and Atmosphere may enter into contracts and make grants under this section to—

101 STAT. 1475

"(1) enhance cooperative international research and educational activities on ocean, coastal and Great Lakes resources;

"(2) promote shared marine activities with universities in countries with which the United States has sustained mutual interest in ocean, coastal, and Great Lakes resources;

"(3) encourage technology transfer that enhances wise use of ocean, coastal, and Great Lakes resources in other countries and in the United States;

"(4) promote the exchange among the United States and foreign nations of information and data with respect to the assessment, development, utilization, and conservation of such resources;

"(5) use the national sea grant college program as a resource in other Federal civilian agency international initiatives whose purposes are fundamentally related to research, education, technology transfer and public service programs concerning the understanding and wise use of ocean, coastal, and Great Lakes resources; and

"(6) enhance regional collaboration between foreign nations and the United States with respect to marine scientific research, including activities which improve understanding of global oceanic and atmospheric processes, undersea minerals resources within the exclusive economic zone, and productivity and enhancement of living marine resources in—

"(A) the Caribbean and Latin American regions; Caribbean. Latin America.

"(B) the Pacific Islands region; Pacific Islands.

"(C) the Arctic and Antarctic regions; Arctic and Antarctic.

"(D) the Atlantic and Pacific Oceans; and Atlantic Ocean. Pacific Ocean.

"(E) the Great Lakes. Great Lakes.

"(b) ELIGIBILITY, PROCEDURES, AND REQUIREMENTS.—Any sea grant college, sea grant program, or sea grant regional consortium, and any institution of higher education, laboratory, or institute (if the institution, laboratory, or institute is located within a State, as defined in section 203(14) of the National Sea Grant College Program Act (33 U.S.C. 1122(14)), may apply for and receive financial assistance under this section. The Under Secretary shall prescribe rules and regulations, in consultation with the Secretary of State, to carry out this section. Before approving an application for a grant or contract under this section, the Under Secretary shall consult with the Secretary of State. A grant made, or contract entered into, under this section is subject to section 205(d) (2) and (4) of the National Sea Grant College Program Act (33 U.S.C. 1124(d) (2) and (4)) and to any other requirements that the Under Secretary considers necessary and appropriate.". Contracts.

Subtitle B—Great Lakes Mapping

Great Lakes Shoreline Mapping Act of 1987. 33 USC 883a note.

SEC. 3201. SHORT TITLE.

This subtitle may be cited as the "Great Lakes Shoreline Mapping Act of 1987".

SEC. 3202. GREAT LAKES SHORELINE MAPPING PLAN.

33 USC 883a note.

(a) PREPARATION OF PLAN.—Not later than nine months after the date of the enactment of this subtitle, the Director, in consultation with the Director of the United States Geological Survey, shall submit to the Congress a plan for preparing maps of the shoreline of the Great Lakes under section 3203. 101 STAT. 1476

(b) CONTENT OF PLAN.—A plan prepared under paragraph (1) shall include—

(1) a work proposal and a division of responsibilities between the National Oceanic and Atmospheric Administration and the United States Geological Survey;

(2) a time schedule for completion of maps;

(3) recommendation of funding needed for preparing the maps; and

(4) an area mapping schedule, with first priority given to shoreline areas subject to a high risk of erosion or flooding.

SEC. 3203. PREPARATION OF GREAT LAKES SHORELINE MAPS.

(a) IN GENERAL.—The following completion of a shoreline mapping plan under section 3202 and subject to authorization and appropria-

tion of funds, the Director, in consultation with the Director of the United States Geological Survey, shall prepare maps of the shoreline areas of the Great Lakes.

(b) CONTENT OF MAPS.—Maps prepared under this section—

(1) shall include—

(A) bathymetry of the nearshore area, to the extent that this area will affect coastal erosion and flooding;

(B) topography of the adjacent shoreline, to the extent that this area will directly affect or be affected by coastal erosion and flooding;

(C) the geological conditions of the nearshore area and shoreline to the extent that these areas will directly affect or be affected by coastal erosion and flooding;

(D) information on the recent geological past of the nearshore area and shoreline areas described in paragraph (3); and

(E) appropriate information for use in predicting and preventing damage caused by erosion and flooding in the Great Lakes;

(2) shall be of appropriate scale and detail and take into account the greater informational needs of areas subject to a high risk of erosion or flooding; and

Canada.

(3) to the maximum extent practicable, shall be consistent with similar shoreline maps prepared by, or for the use of, the Government of Canada.

State and local governments.

(c) CONSULTATION.—In preparing maps under this section, the Director shall consult with, and take into consideration, the informational needs of—

(1) the Army Corps of Engineers;

(2) the Federal Emergency Management Agency;

(3) other appropriate Federal agencies;

Illinois. Indiana. Michigan. Minnesota. New York. Ohio. Pennsylvania. Wisconsin.

(4) the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin;

(5) appropriate local government units; and

(6) the general public.

Public information. State and local governments. Canada.

(d) AVAILABILITY OF MAPS.—The Director shall make maps prepared under this section available to—

(1) Federal agencies;

(2) State governments;

(3) local government units;

(4) the Government of Canada; and

(5) the general public.

101 STAT. 1477

(e) RECOVERY OF COSTS.—The costs of reproducing and distributing maps prepared under this section may be recovered under section 9701 of title 31, United States Code, or another law.

SEC. 3204. CONTRACT AUTHORITY.

State and local governments.

The Director may, subject to appropriations, enter into contracts and agreements on a reimbursable or cost-sharing basis with other Federal agencies, State governments, local governments, and private entities, to carry out this subtitle.

SEC. 3205. DEFINITIONS.

For purposes of this subtitle—

(1) The term "Director" means the Director of Charting and Geodetic Services of the National Ocean Service, within the National Oceanic and Atmospheric Administration.

(2) The term "Great Lakes" means Lake Erie, Lake Huron, Lake Michigan, Lake Ontario, Lake St. Clair, Lake Superior, the Saint Mary's River, the Saint Clair River, the Detroit River, the Niagara River, the Saint Lawrence River to the Canadian border, to the extent such lakes and rivers are subject to the jurisdiction of the United States.

(3) The term "high risk of erosion" means subject to erosion at a rate greater than 1 foot per year.

SEC. 3206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out section 3202 not more than $100,000 for fiscal year 1988. Amounts appropriated pursuant to this section shall remain available until expended.

TITLE IV—DRIFTNET IMPACT MONITORING, ASSESSMENT, AND CONTROL

Driftnet Impact Monitoring, Assessment, and Control Act of 1987.
North Pacific Ocean.
16 USC 1822 note.

SEC. 4001. SHORT TITLE.

This title may be cited as the "Driftnet Impact Monitoring, Assessment, and Control Act of 1987".

SEC. 4002. FINDINGS.

The Congress finds that—

(1) the use of long plastic driftnets is a fishing technique that may result in the entanglement and death of enormous numbers of target and nontarget marine resources in the waters of the North Pacific Ocean, including the Bering Sea;

(2) there is a pressing need for detailed and reliable information on the number of marine resources that become entangled and die in actively fished driftnets and in driftnets that are lost, abandoned, or discarded; and

(3) increased efforts are necessary to monitor, assess, and reduce the adverse impacts of driftnets.

SEC. 4003. DEFINITIONS.

As used in this title—

(1) DRIFTNET.—The term "driftnet" means a gillnet composed of a panel of plastic webbing one and one-half miles or more in length.

101 STAT. 1478

(2) DRIFTNET FISHING.—The term "driftnet fishing" means a fish-harvesting method in which a driftnet is placed in water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(3) EXCLUSIVE ECONOMIC ZONE OF THE UNITED STATES.—The term "exclusive economic zone of the United States" means the zone defined in section 3(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(b)).

(4) MARINE RESOURCES.—The term "marine resources" includes fish, shellfish, marine mammals, seabirds, and other forms of marine life or waterfowl.

(5) MARINE RESOURCES OF THE UNITED STATES.—The term "marine resources of the United States" means—

(A) marine resources found in, or which breed within, areas subject to the jurisdiction of the United States, including the exclusive economic zone of the United States; and

(B) species of fish, wherever found, that spawn in the fresh or estuarine waters of the United States.

(6) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

SEC. 4004. MONITORING AGREEMENTS.

International agreements.

(a) NEGOTIATIONS.—The Secretary, through the Secretary of State and in consultation with the Secretary of the Interior, shall immediately initiate, negotiations with each foreign government that conducts, or authorizes its nationals to conduct, driftnet fishing that results in the taking of marine resources of the United States in waters of the North Pacific Ocean outside of the exclusive economic zone and territorial sea of any nation, for the purpose of entering into agreements for statistically reliable cooperative monitoring and assessment of the numbers of marine resources of the United States killed and retrieved, discarded, or lost by the foreign government's driftnet fishing vessels. Such agreements shall provide for—

(1) the use of a sufficient number of vessels from which scientists of the United States and the foreign governments may observe and gather statistically reliable information; and

(2) appropriate methods for sharing equally the costs associated with such activities.

(b) REPORT.—The Secretary, in consultation with the Secretary of State, shall provide to the Congress not later than 1 year after the date of enactment of this Act a full report on the results of negotiations under this section.

SEC. 4005. IMPACT REPORT.

(a) IN GENERAL.—The Secretary shall provide to the Congress within 1 year after the date of the enactment of this Act, and at such other times thereafter as the Secretary considers appropriate, a report identifying the nature, extent, and effects of driftnet fishing in waters of the North Pacific Ocean on marine resources of the United States. The report shall include the best available information on—

Maritime affairs.

(1) the number and flag state of vessels involved;

(2) the areas fished;

(3) the length, width, and mesh size of driftnets used;

(4) the number of marine resources of the United States killed by such fishing;

101 STAT. 1479

(5) the effect of seabird mortality, as determined by the Secretary of the Interior, on seabird populations; and

(6) any other information the Secretary considers appropriate.

(b) INFORMATION FROM FOREIGN GOVERNMENTS.—The Secretary, through the Secretary of State, shall—

(1) request relevant foreign governments to provide the information described in subsection (a), and

Reports.

(2) include in a report under this section the information so provided and an evaluation of the adequacy and reliability of such information.

International agreements.

SEC. 4006. ENFORCEMENT AGREEMENTS.

(a) NEGOTIATIONS.—The Secretary shall immediately initiate, through the Secretary of State and in consultation with the Secretary of the Department in which the Coast Guard is operating negotiations with each foreign government that conducts, or authorizes its nationals to conduct, driftnet fishing that results in the taking of marine resources of the United States in waters of the North Pacific Ocean outside of the exclusive economic zone and territorial sea of any nation, for the purpose of entering into agreements for effective enforcement of laws, regulations, and agreements applicable to the location, season, and other aspects of the operations of the foreign government's driftnet fishing vessels. Such agreements shall include measures for—

(1) the effective monitoring and detection of violations;

(2) the collection and presentation of such evidence of violations as may be necessary for the successful prosecution of such violations by the responsible authorities;

(3) reporting to the United States of penalties imposed by the foreign governments for violations; and

(4) appropriate methods for sharing equally the costs associated with such activities.

(b) CERTIFICATION FOR PURPOSES OF FISHERMEN'S PROTECTIVE ACT OF 1967.—If the Secretary, in consultation with the Secretary of State, determines that a foreign government has failed, within 18 months after the date of the enactment of this Act, to enter into and implement an agreement under subsection (a) or section 4004(a) that is adequate, the Secretary shall certify such fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)).

SEC. 4007. EVALUATIONS AND RECOMMENDATIONS.

(a) MARKING, REGISTRY, AND IDENTIFICATION SYSTEM.—The Secretary shall evaluate, in consultation with officials of other Federal agencies and such other persons as may be appropriate, the feasibility of and develop recommendations for the establishment of a driftnet marking, registry, and identification system to provide a reliable method for the determination of the origin by vessel, of lost, discarded, or abandoned driftnets and fragments of driftnets. In conducting such evaluation, the Secretary shall consider the adequacy of existing driftnet identification systems of foreign nations and the extent to which these systems achieve the objectives of this title.

(b) ALTERNATIVE DRIFTNET MATERIALS.—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of, and develop appropriate recommendations for, the use of alternative materials in driftnets for the purpose of increasing the rate of decomposition of driftnets that are discarded or lost at sea. 101 STAT. 1480

(c) DRIFTNET BOUNTY SYSTEM.—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of and develop appropriate recommendations for the implementation of a driftnet bounty system to pay persons who retrieve from the exclusive economic zone and deposit with the Secretary lost, abandoned, and discarded driftnet and other plastic fishing material.

(d) DRIFTNET FISHING VESSEL TRACKING SYSTEM.—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of, and develop appropriate recommendations for, the establishment of a cooperative driftnet fishing vessel tracking system to facilitate efforts to monitor the location of driftnet fishing vessels.

(e) REPORT.—The Secretary shall transmit to the Congress not later than 18 months after the date of the enactment of this Act a report setting forth—

(1) the evaluations and recommendations developed under subsections (a), (b), (c), and (d);

(2) the most effective and appropriate means of implementing such recommendations;

(3) any need for further research and development efforts and the estimated cost and time required for completion of such efforts; and

(4) any need for legislation to provide authority to carry out such recommendations.

SEC. 4008. CONSTRUCTION WITH OTHER LAWS.

This title shall not serve or be construed to expand or diminish the sovereign rights of the United States, as stated by Presidential Proclamation Numbered 5030, dated March 10, 1983, and reflected in existing law on the date of the enactment of this Act.

SEC. 4009. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Commerce and the Department of State, such sums as may be necessary to carry out the purposes of this title.

TITLE V—RED TIDE CONTAMINATION

North Carolina.

SEC. 5001. DECLARATION OF DISASTER.

Notwithstanding any other provision of law, rule, or regulation, upon the date of the enactment of this Act, the Administrator of the Small Business Administration shall declare the recent North Carolina coast red tide contamination a disaster for purposes of section 7(b) of the Small Business Act (15 U.S.C. 636(b)).

SEC. 5002. PROVISION OF ASSISTANCE.

Notwithstanding any other provision of law, rule, or regulation, for purposes of providing assistance under paragraph (2) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)(2)) for a disaster declared under section 1 of this Act, eligibility of individual applicants for assistance shall not in any way be dependent on—

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(1) the number of disaster victims in any county or other political subdivision; or

(2) whether or not an applicant who normally conducts operations in the area of the recent North Carolina coast red tide contamination is otherwise situated or located in such area; or

(3) the type of business or industry in which the applicant is engaged.

SEC. 5003. RECENT NORTH CAROLINA COAST RED TIDE CONTAMINATION DEFINED.

For purposes of this Act, the term "recent North Carolina coast red tide contamination" means contamination of waters under the jurisdiction of the State of North Carolina by unusually high concentrations of the algae known as Ptychodiscus brevis (commonly referred to as "red tide"), with respect to which the Director of the Division of Marine Fisheries of the North Carolina Department of Natural Resources issues a shell fishing closure proclamation on or after November 2, 1987.

Approved December 29, 1987.

LEGISLATIVE HISTORY—H.R. 3674:

HOUSE REPORTS: No. 100-489 (Comm. on Merchant Marine and Fisheries).
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